DDA OCCASIONAL PAPERS

No. 11, October 2006

United Nations

United Nations Seminar on Implementing UN Security Council Resolution 1540 in Asia and the Pacific

12-13 July 2006
Beijing China

Foreign Ministry of the
People's Republic of China

Governments of Australia,
Denmark, Norway, United Kingdom and
the European Union

Department for Disarmament Affairs

DDA OCCASIONAL PAPERS

No. 11, October 2006

United Nations Seminar on Implementing UN Security Council Resolution 1540 in Asia and the Pacific

12-13 July 2006
Beijing China

United Nations
Department for Disarmament Affairs

DDA Occasional Papers is a series of ad hoc publications presenting, in edited form, some of the papers or statements made at international meetings, symposia, seminars or workshops organized by the Department for Disarmament Affairs or its regional centres in Lima, Lomé or Kathmandu. They deal with topical issues in the field of arms limitation, disarmament and international security and are intended primarily for those concerned with these matters in government and in the academic community.

The views expressed in *DDA Occasional Papers* are those of the authors and do not necessarily reflect those of the United Nations Secretariat, or those of their government or of the institutions or organizations with which they are affiliated.

Material appearing in *DDA Occasional Papers* may be reprinted without permission, provided the credit line reads "Reprinted from *DDA Occasional Papers*" and specifies the number of the occasional paper concerned. A tearsheet should be sent to the following address:

Department for Disarmament Affairs
MDI Branch, Room S-3151
United Nations
New York, N.Y. 10017
United States

This publication also appears on the DDA web site at **http://disarmament.un.org/ddapublications/op11.htm**

Contents

Preface ..... *ix*

UNSCR 1540 (2004) ..... *xi*

UNSCR 1673 (2006) ..... *xvii*

Opening Session

Welcome remarks
Cui Tiankai *1*

Opening remarks
Nobuaki Tanaka *5*

Keynote address
Peter Burian *9*

Statement by the United Kingdom
William Ehrman *15*

Session I: Overview of the current status of implementation of the resolutions

National experience in preparing a report
Ma Shengkun *21*

UNSCR 1540 National Report: the ROK
Jong Kwon Youn *25*

Chairman's Summary: Overview of the current status of implementation of Resolution 1540
Peter Burian 31

Session II: National implementation experiences on prohibitions specific to UNSCR 1540

National implementation experiences on prohibitions specific to resolution 1540 — the case of India
Naveen Srivastava 37

Australia: Implementing prohibitions specific to UNSCR 1540
Sophia McIntyre 49

Session III: National experiences in implementing measures related to accounting, securing and the physical protection of nuclear, chemical and biological items including related materials and means of delivery

Accounting, securing, and the physical protection of nuclear materials and installations
Peter Colgan 61

China's Management System and experience in nuclear security
Annex: Slide presentation
Huang Wei 77

Accounting, securing, and the physical protection of nuclear material and installations
Igor S. Vishnevetskiy 91

Accounting, securing and the physical protection of chemical materials and installations — an OPCW perspective
Malik Azhar Ellahi 99

Accounting, securing, and the physical protection of chemical and biological materials and installations — Viet Nam's perspective
Ngyuen Hai Luu 107

Session IV: National experiences in implementing measures related to export controls

Regulatory and legal framework of the licensing in the Russian Federation and mechanisms for monitoring the end-use
Igor S. Vishnevetskiy 121

Singapore's strategic goods control system
Chiew Sum Chi 129

Session V: National experiences in implementing enforcement of export control measures

Border control and surveillance as instruments in export control
Odd Berner Malme 137

Measures and initiatives on chemical export control in China
Yuan Longhua *143*

Session VI: Assistance

Seminar on implementing UNSCR 1540 in Asia and the Pacific
Annalisa Giannella *151*

EU-Outreach project — Pilot Project 2005
Natascha Wessel *157*

Providing and receiving assistance: New Zealand
Philip Divett *163*

The Philippines and export control
Jaime Victor Ledda *171*

Japan's capacity-building assistance in relation to implementation of UNSCR 1540
Sho Ohno *175*

Providing and receiving assistance: United States
Thomas A. Wuchte *191*

Additional papers

Presentation by Cambodia
Colonel Kouth Thavy *199*

Implementation of non-proliferation commitments — Kazakhstan
Kairat Sarzhanov *203*

Closing Session

Closing address by Deputy Director-General
Wu Haitao *209*

Concluding statement
Nobuaki Tanaka *213*

Appendix
List of Participants *217*

PREFACE

On 12–13 July 2006, the United Nations Department for Disarmament Affairs (DDA) and the Foreign Ministry of the People's Republic of China, with the generous support of the Governments of Australia, Denmark, Norway, the United Kingdom and the European Union, jointly hosted the first 1540 outreach seminar on "Implementing UNSC Resolution 1540 in Asia and the Pacific", held in Beijing. The sixty-seven participants included government officials from twenty-eight countries as well as international organizations. Through this seminar, participants shared their experiences in preparing their national reports and implementing resolution 1540 (2004), with a special focus on export controls, international assistance and lessons learned as highlighted in UNSC resolution 1673 (2006).

DDA would like to take this opportunity to express its deep appreciation to the Ministry of Foreign Affairs of the People's Republic of China for its excellent work in both hosting the event and in contributing to the substantive discussions at the Conference.

* * *

RESOLUTION 1540 (2004)

Adopted by the Security Council at its 4956th meeting, on 28 April 2004

The Security Council,

Affirming that proliferation of nuclear, chemical and biological weapons, as well as their means of delivery,* constitutes a threat to international peace and security,

Reaffirming, in this context, the Statement of its President adopted at the Council's meeting at the level of Heads of State and Government on 31 January 1992 (S/23500), including the need for all Member States to fulfil their obligations in relation to arms control and disarmament and to prevent proliferation in all its aspects of all weapons of mass destruction,

Recalling also that the Statement underlined the need for all Member States to resolve peacefully in accordance with the Charter any problems in that context threatening or disrupting the maintenance of regional and global stability,

Affirming its resolve to take appropriate and effective actions against any threat to international peace and security caused by the proliferation of nuclear, chemical and biological weapons and their means of delivery, in conformity with its primary responsibilities, as provided for in the United Nations Charter,

Affirming its support for the multilateral treaties whose aim is to eliminate or prevent the proliferation of nuclear, chemical or biological weapons and the importance for all States parties to these treaties to

implement them fully in order to promote international stability,

Welcoming efforts in this context by multilateral arrangements which contribute to non-proliferation,

Affirming that prevention of proliferation of nuclear, chemical and biological weapons should not hamper international cooperation in materials, equipment and technology for peaceful purposes while goals of peaceful utilization should not be used as a cover for proliferation,

Gravely concerned by the threat of terrorism and the risk that non-State actors* such as those identified in the United Nations list established and maintained by the Committee established under Security Council resolution 1267 and those to whom resolution 1373 applies, may acquire, develop, traffic in or use nuclear, chemical and biological weapons and their means of delivery,

Gravely concerned by the threat of illicit trafficking in nuclear, chemical, or biological weapons and their means of delivery, and related materials,* which adds a new dimension to the issue of proliferation of such weapons and also poses a threat to international peace and security,

Recognizing the need to enhance coordination of efforts on national, subregional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international security,

Recognizing that most States have undertaken binding legal obligations under treaties to which they are parties, or have made other commitments aimed at preventing the proliferation of nuclear, chemical or biological weapons, and have taken effective measures to account for, secure and physically protect sensitive materials, such as those required by the Convention on the Physical Protection of Nuclear Materials and those recommended by the IAEA Code of Conduct on the Safety and Security of Radioactive Sources,

Recognizing further the urgent need for all States to take additional effective measures to prevent the proliferation of nuclear, chemical or biological weapons and their means of delivery,

Encouraging all Member States to implement fully the disarmament treaties and agreements to which they are party,

Reaffirming the need to combat by all means, in accordance with the Charter of the United Nations, threats to international peace and security caused by terrorist acts,

Determined to facilitate henceforth an effective response to global threats in the area of non-proliferation,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides that* all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery;

2. *Decides also* that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;

3. *Decides also* that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a) Develop and maintain appropriate effective meas-

ures to account for and secure such items in production, use, storage or transport;

(b) Develop and maintain appropriate effective physical protection measures;

(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations;

4. *Decides* to establish, in accordance with rule 28 of its provisional rules of procedure, for a period of no longer than two years, a Committee of the Security Council, consisting of all members of the Council, which will, calling as appropriate on other expertise, report to the Security Council for its examination, on the implementation of this resolution, and to this end calls upon States to present a first report no later than six months from the adoption of this resolution to the Committee on steps they have taken or intend to take to implement this resolution;

5. *Decides* that none of the obligations set forth in this resolution shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention

and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency or the Organization for the Prohibition of Chemical Weapons;

6. *Recognizes* the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists;

7. *Recognizes* that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions;

8. *Calls upon* all States:

(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

(c) To renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;

(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

9. *Calls upon* all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery;

10. Further to counter that threat, *calls upon* all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

11. *Expresses* its intention to monitor closely the implementation of this resolution and, at the appropriate level, to take further decisions which may be required to this end;

12. *Decides* to remain seized of the matter.

* *Definitions for the purpose of this resolution only:*

Means of delivery: missiles, rockets and other unmanned systems capable of delivering nuclear, chemical, or biological weapons, that are specially designed for such use.

Non-State actor: individual or entity, not acting under the lawful authority of any State in conducting activities which come within the scope of this resolution.

Related materials: materials, equipment and technology covered by relevant multilateral treaties and arrangements, or included on national control lists, which could be used for the design, development, production or use of nuclear, chemical and biological weapons and their means of delivery.

* * *

RESOLUTION 1673 (2006)

Adopted by the Security Council at its 5429th meeting, on 27 April 2006

The Security Council,

Having considered the report of the Security Council Committee established pursuant to resolution 1540 (2004), hereafter the 1540 Committee (S/2006/257), and reaffirming its resolution 1540 (2004) of 28 April 2004,

Reaffirming that proliferation of nuclear, chemical and biological weapons, as well as their means of delivery, constitutes a threat to international peace and security,

Endorsing the work already carried out by the 1540 Committee, particularly in its consideration of the national reports submitted by States pursuant to resolution 1540 (2004),

Recalling that not all States have presented to the 1540 Committee their reports on the steps they have taken or intend to take to implement resolution 1540 (2004),

Reaffirming its decision that none of the obligations in resolution 1540 (2004) shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency or the Organisation for the Prohibition of Chemical Weapons,

Noting that the full implementation of resolution 1540 (2004) by all States, including the adoption of national laws and measures to ensure the implementation of these laws, is a long-term task that will require continuous efforts at national, regional and international levels,

Acting under Chapter VII of the Charter of the United Nations,

1. *Reiterates* its decisions in and the requirements of resolution 1540 (2004) and emphasizes the importance for all States to implement fully that resolution;

2. *Calls upon* all States that have not yet presented a first report on steps they have taken or intend to take to implement resolution 1540 (2004) to submit such a report to the 1540 Committee without delay;

3. *Encourages* all States that have submitted such reports to provide, at any time or upon the request of the 1540 Committee, additional information on their implementation of resolution 1540 (2004);

4. *Decides* to extend the mandate of the 1540 Committee for a period of two years, with the continued assistance of experts, until 27 April 2008;

5. *Decides* that the 1540 Committee shall intensify its efforts to promote the full implementation by all States of resolution 1540 (2004) through a work programme which shall include the compilation of information on the status of States' implementation of all aspects of resolution 1540 (2004), outreach, dialogue, assistance and cooperation, and which shall address in particular all aspects of paragraphs 1 and 2 of that resolution, as well as of paragraph 3 which encompasses (a) accountability, (b) physical protection, (c) border controls and law enforcement efforts and (d) national export and trans-shipment controls including controls on pro-

viding funds and services such as financing to such export and trans-shipment, and in that regard:

(a) *encourages* the pursuit of the ongoing dialogue between the 1540 Committee and States on the full implementation of resolution 1540 (2004), including on further actions needed from States to that end and on technical assistance needed and offered;

(b) *invites* the 1540 Committee to explore with States and international, regional and subregional organizations experience-sharing and lessons learned in the areas covered by resolution 1540 (2004), and the availability of programmes which might facilitate the implementation of resolution 1540 (2004);

6. *Decides* that the 1540 Committee will submit to the Security Council a report no later than 27 April 2008 on compliance with resolution 1540 (2004) through the achievement of the implementation of its requirements;

7. *Decides* to remain seized of the matter.

* * *

Opening Session

WELCOME REMARKS

*Cui Tiankai**

Abstract

In the face of challenges to regional and global security, the international community must step up efforts to ensure a comprehensive approach to the non-proliferation cause. UNSCR 1540 plays a significant role in enhancing international consensus and cooperation on non-proliferation. It is therefore incumbent on Member States to take steps to implement the resolution through improved export control legislations, strengthened domestic administration and control and international cooperation based on equality and mutual benefit. The 1540 Committee should draw up an effective work plan that would encourage more countries to submit carefully reviewed national reports that includes constructive advice on ways to implement the resolutions.

On behalf of the Ministry of Foreign Affairs of China, I would like to welcome the participants to this seminar and to express my sincere appreciation to the United Nations Department for Disarmament Affairs (DDA), the European Union (EU) and the governments of Australia, Denmark, Norway and the United Kingdom for their contributions.

At present, the international situation continues to undergo profound changes. Peace, development and cooperation have become the call of our times, yet our world is far from tranquil. Safeguarding world peace

* *Cui Tiankai* is Assistant Minister, Ministry of Foreign Affairs, Beijing.

and promoting common development therefore remain the overriding task for the international community.

In recent years, the task of non-proliferation has become increasingly pressing and has affected regional and international security. In April 2004, the UN Security Council unanimously adopted resolution 1540 — the first resolution devoted to non-proliferation — which calls on all States to take measures to strengthen export control and conduct international cooperation to prevent the acquisition of weapons of mass destruction (WMD) and related materials and technologies by non-State actors. As such, resolution 1540 plays a significant role in enhancing international consensus and cooperation on non-proliferation.

Through unremitting efforts over the years, the international community has established an international non-proliferation system guided by the UN Charter, legally based on the Treaty on the Non-Proliferation of Nuclear Weapons, the Chemical Weapons Convention and the Biological Weapons Convention and complemented by various non-proliferation regimes and initiatives. All these efforts have led to the forceful containment of proliferation activities.

In the face of the new situation and its challenges, it is in the interest of all countries and incumbent on each State to safeguard and bolster the existing international non-proliferation system and push forward the international non-proliferation process.

To that end, the international community should step up efforts to ensure a fair, rational and comprehensive and sound approach to the non-proliferation cause as follows:

First, a new concept of security featuring mutual trust, reciprocity, equality and cooperation should be advocated to wipe out incentives to acquire WMD.

Second, proliferation problems should be dealt with by political and diplomatic means and through dialogue and cooperation within the framework of international law.

Third, full play should be given to the role of the United Nations and other international organizations and to a strengthened and improved international non-proliferation regime.

Fourth, a balance should be struck between non-proliferation and peaceful uses.

For its part, China firmly opposes WMD proliferation. As a permanent member of the Security Council, China has always taken a highly responsible approach to non-proliferation issues and contributed its share to international non-proliferation efforts.

China actively participates in the international non-proliferation process. It is a party to all international treaties and to non-proliferation-related organizations and faithfully fulfills its international obligations in that regard. China is a strong facilitator of the process of the "six-party talks" on the Korean peninsular nuclear issue and an active participant in the diplomatic efforts to solve the Iranian nuclear issue through negotiations.

China continues to strengthen its non-proliferation export control and has worked to improve legislation and step up law enforcement and education of the relevant enterprises.

China is actively engaged in international cooperation on non-proliferation by maintaining dialogue and exchange on non-proliferation with many countries and with multinational export control mechanisms in an effort to learn from their useful experiences and practices.

China supported the adoption of resolution 1540 and is a constructive member of the 1540 Committee. It submitted its national report and additional information which gave a full and systematic review of its non-proliferation policy, legislation and specific measures taken in this area.

Since its adoption two years ago, resolution 1540 has been implemented well, thanks to the attention and efforts of various countries. Last April, the Security Council unanimously adopted resolution 1673, which extended the term of the 1540 Committee by two years and urged the Committee to strengthen its efforts to promote the resolution's universal implementation. In this connection, I would like to share a few ideas about the steps that should be taken for the implementation of the resolution.

First, Member States should, as required by the resolution, set up and improve their export control legislations, strengthen their domestic administration and control, export control and law enforcement.

Second, Member States should engage in international cooperation, based on equality and mutual benefit, share useful experience and measures and improve the capability and level of implementing the resolution.

Third, in accordance with its mandate, the Committee should draw up an effective work plan, encourage more countries to submit carefully reviewed national reports and put forward constructive advice and suggestions on ways to implement the resolution.

This is the first seminar on the implementation of resolution 1540 in the Asia-Pacific region and will contribute significantly to its universal and effective implementation in our region. In the next two days, participants will hold in-depth discussions and exchanges on the process and the seminar will serve to deepen the understanding of resolution 1540 and consolidate the consensus, which will be a contribution to the international non-proliferation process.

In conclusion, let me wish the seminar a complete success.

* * *

OPENING REMARKS

*Nobuaki Tanaka**

Abstract

The Department for Disarmament Affairs and its three regional centres stand ready to assist with the outreach, assistance and cooperation activities that the 1540 Committee's newly extended mandate aims to achieve. This seminar, the first outreach activity in the Asia-Pacific region, should be the starting point for further regional and subregional follow-up activities.

On behalf of the United Nations Secretary-General, I wish to thank the Government of China for offering to host this significant meeting and to express my appreciation to the Governments of Australia, Denmark, Norway and the United Kingdom as well as the European Union for their support of this project.

Prior to leaving for Beijing, I participated in the Small Arms Review Conference, which failed to agree on an outcome document. Last year, the world also failed on two significant occasions to produce agreements on disarmament and non-proliferation issues — at the 2005 NPT Review Conference and at the World Summit.

* *Nobuaki Tanaka* is United Nations Under-Secretary General for Disarmament Affairs, United Nations, New York.

This shows that today our world is completely different than it was a decade ago, let alone during the cold war years when the greatest threat to humanity was the overwhelming presence of excessive nuclear weapons. In the twenty-first century, particularly after 9/11, the world we inhabit is in an entirely different strategic setting, where the threat comes not so much from States as from non-State actors, and not so much from nuclear confrontation as from nuclear proliferation.

One of the most troubling aspects of the current security situation is that no country, however small or remote, is totally immune from the threat of weapons of mass destruction (WMD) or from having its territory exploited by terrorists.

It is within this context that in 2004, the United Nations Security Council passed resolution 1540 to deal with WMD threats through a comprehensive set of practical measures to tackle current proliferation problems rather than a doctrine or policy enunciation. Since its inception two years ago to ensure implementation of the resolution, the 1540 Committee has been primarily active in data and information collection and has achieved enlightening and educating results.

I was particularly pleased when, on 27 April, the Security Council extended the Committee's mandate for another two years and decided that the resolution's new phase should see an intensification of efforts to promote its full implementation, including through enhanced outreach, assistance and cooperation efforts. I hope that this first meeting in the Asia-Pacific region will enable us to give effect to those terms by working together to increase regional and bilateral cooperation in our efforts to prevent terrorists from obtaining access to WMD materials and their means of delivery.

On this occasion, we have the opportunity to draw upon the experience and lessons learned from the first two years of the Committee's work as well as to think and plan ahead for the longer term. It is important to note, however, that the resolution does not alter the existing obligations already undertaken by States under multilateral disarmament and non-proliferation instruments such as the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), Chemical Weapons Convention (CWC) or the Biological Weapons Convention (BWC). Indeed, resolution 1540 is expressly designed to enhance and further strengthen support for these treaties.

It is equally important to acknowledge that States lacking the necessary legal and regulatory infrastructure, implementation experience or resources may require assistance in implementing the 1540 provisions. For that reason, States in a position to do so are strongly urged to offer assistance in response to specific requests. This is where the Department for Disarmament Affairs (DDA) can play an invaluable role in countering the proliferation of WMD.

DDA already provides daily substantive support to the Committee, including all aspects related to the work of its experts, ensuring the flow of communication between them and the Secretariat, maintaining the Committee's web site and databases and providing administrative and logistical support for outreach activities.

This meeting is well timed to identify specific needs and to ascertain where further assistance is needed, whether it is country-specific, requiring certain specialist support, or a shared need among a few States or the subregion as a whole. This first outreach activity in the Asia-Pacific region on implementing resolution 1540 should be just the starting point for further regional and subregional follow-up activities.

I am particularly concerned by the need to control technology transfer and dual-use items that could be used to either produce WMD or their delivery systems. I maintain that the United Nations and DDA must make an increasing effort to coordinate work on disarmament and non-proliferation issues with the various export control regimes — 1540 recognizes their strategic importance and we should recognize it as well.

In conclusion, DDA and its regional centres stand ready to assist, particularly in those aspects of outreach, assistance and cooperation that the newly extended mandate aims to achieve. I look forward to working closely towards our shared objective — the full implementation of resolution 1540.

* * *

KEYNOTE SPEECH

*Peter Burian**

Abstract

National implementation and reporting by all States are key to effectively reach the goals of resolution 1540. In its future work the Committee will expand and intensify regional and subregional activities in an effort to provide guidance to States so that they may implement all obligations under the resolution. To that end, States making offers of assistance and States seeking assistance with their national reports should take a proactive approach on a bilateral basis, including making use of offers by international organizations in order to contribute to capacity-building. The keynote speech addresses this aspect of the resolution.

On behalf of the Members of the 1540 Committee, it is a great pleasure for me to convey our gratitude to the Chinese authorities for their hospitality and generous offer to host the first regional seminar in Asia dedicated to the implementation of resolution 1540 (2004) in the Asia and Pacific region. Our appreciation also goes to the Department for Disarmament Affairs (DDA) and the co-sponsors, in particular the European Commission and its special representative, Annalisa Giannella, for their commendable efforts to support this outreach activity of the 1540 Committee which aims to promote further reporting and facilitat-

* *Peter Burian* is Chairman of the 1540 Committee established pursuant to United Nations Security Council Resolution 1540 (2004).

ing the implementation of the resolution by all States. I am particularly happy that this opportunity is taken in conjunction with the representation from the International Atomic Energy Agency (IAEA), the Organisation for the Prohibition of Chemical Weapons (OPCW) and the World Customs Organization (WCO), three important organizations that can contribute their share in facilitating the implementation of resolution 1540.

For the 1540 Committee, the seminar is an exceptional opportunity to interact with representatives of States from a region whose commitment to promote and support the international non-proliferation regimes is of particular importance.

The unanimous adoption of resolution 1540 in April 2004 was a major step ahead for the entire global framework of non-proliferation undertakings. Resolution 1540 focuses generally on the threat of weapons of mass destruction (WMD) proliferation and has the main objective of filling in the gaps existing in the current non-proliferation regimes. With resolution 1540 (2004), the Security Council adopted the first international instrument that deals with WMD, their means of delivery and related materials in an integrated and comprehensive manner. It establishes binding obligations for all States regarding non-proliferation and is aimed at preventing and deterring illicit access to such weapons and weapon-related materials. The resolution requests all States to report on measures they have taken or intend to take to implement the obligations under the resolution. Later, the Committee's experts will provide you with detailed information about the obligations under the resolution as well as on the implementation status in this region.

Resolution 1540 does not conflict with or alter rights and obligations of State Parties to existing international disarmament and non-proliferation instruments. It lays down addi-

tional obligations with a view to addressing lacunae in current non-proliferation regimes. National implementation is not hampering international cooperation in materials, equipment and technology for peaceful purposes.

On the one hand, resolution 1540 institutes obligations on all States to take legislative and administrative action in accordance with their national legal framework. On the other hand, it does not prescribe specific standards that have to be implemented at the national level. In its future work the Committee will identify national implementation practices that will cover all aspects of the resolution. Such practices will be shared with States seeking legislative assistance to implement the resolution, or developing, establishing or updating their legislative measures in this regard.

Measures to counter proliferation remain primarily within the responsibility of States. While States can benefit from cooperation in their efforts to meet their obligations under resolution 1540, implementation remains a national function and responsibility. That is what makes national performance so crucial for achieving the goals set forth in the resolution. There are certain dividends that could be gained by implementing fully the resolution: improved safety and security for the citizens, national territory, neighboring countries and the region, but also increased access to goods and technologies that could support States' social and economic development.

There is a special reference that I have to make, and that concerns the need to create general awareness of the fact that the obligations set up by resolution 1540 definitely do not concern only States that possess the relevant WMD-related technology. The nexus between WMD and terrorism can be realized anywhere in our globalized world. Every single country and nation has to get involved in this global cooperative

effort. There is no safe haven in the face of this ominous threat.

National implementation and reporting are therefore key to the effective attainment of resolution 1540's goals and objectives. Developing, updating and enforcing national regulations to prevent the proliferation of and prohibit access to weapons of mass destruction, their means of delivery and related materials is an ongoing process that may not always have immediate results. The reasons may lie in the lack of capacity, in differing perceptions of the WMD threat and different political priorities, and complex legislative procedures at the national level. Monitoring the implementation of resolution 1540, however, is a prerequisite to identifying the gaps that exist and to assisting States to fulfill the requirements under the resolution.

Since the adoption of the resolution in 2004, 132 Member States of the United Nations and one organization have submitted national reports on measures they undertook or intend to take to implement their obligations under the resolution. Thirteen States from this region have to provide such reports without delay. In response to the examination of the first national reports by the Committee, eighty-four States provided additional information, but only twenty-three from the Asia and Pacific region. I call upon all States to provide additional information to the Committee on national implementation as an ongoing process, including, for instance, in the form of a road map or action plan for addressing remaining measures to be taken to implement fully the resolution.

Some States may still encounter difficulties in preparing a first national report on implementation. Others might consider that they have nothing to report, as they neither possess weapons of mass destruction and their means of delivery nor have the capacity to develop such items or related materials. However, they should be aware that non-State actors

might seek to exploit their territory — using it, for instance, to ship goods across in transit, or for financing an illegal activity or as a base to broker the sale of WMD-related goods in other countries.

On 27 April 2006, I presented a report on the status of implementation of resolution 1540 (2004) to the Security Council. This report builds on the examination of data submitted in the national reports, the additional information provided by States and the information available in a legislative database developed by the Committee containing national laws and regulations. The experts will share with you some figures regarding the overall stage of implementation in your region. I would only refer to the findings, conclusions and recommendations that are of utmost importance for furthering the implementation process as well as for enabling States to continue fulfilling the requirements under the resolution.

The measures undertaken by States from the region are uneven when we look at the implementation of all obligations pursuant to resolution 1540 which encompass accountability, physical protection, border controls and law enforcement efforts and national export and trans-shipment controls, including controls on providing funds and services such as financing to such export and trans-shipment. There are still legislative and enforcement gaps that countries need to address in order to fulfill all requirements of the resolution. The Committee's findings in this regard will continue to be shared with all reporting States.

On that basis, the Committee's activities to assist States in meeting the implementation requirements of the resolution will concentrate on regions and areas where specific needs were identified. Regional and subregional outreach activities will be widened and intensified with a view to providing in a structured manner guidance to States for implementing all their obligations under the resolution. Your proac-

tive contribution to support such approach will be highly appreciated, including through the regional and subregional organizations of Asia and the Pacific region, of which the Member States are parties.

In considering national reports, the Committee has already identified and put together both needs and offers of assistance. We are encouraged by the fact that many countries are already helping with expertise and advice to States lacking knowledge, experience or resources to implement resolution 1540. The Committee already gave an indication on the concrete areas where assistance can be provided by a specific country as well as the way in which contacts for assistance are to be established on a bilateral basis.

We invite both States making offers of assistance and States requesting assistance to take a proactive approach on a bilateral basis, including making use of offers by international organizations, in order to contribute to capacity-building.

As the mandate of the Committee was extended for another two years, until 27 April 2008, it will continue to compile information on the status of States' implementation of all aspects of resolution 1540 — outreach, dialogue, assistance and cooperation.

Currently, the Committee is considering a draft work programme which will specifically and systematically address the implementation by all States of all requirements of resolution 1540.

Before concluding, I would like to stress that we need your active support in making sure that all requirements set forth in resolution 1540 are met, and last but not least, that countries do report to the 1540 Committee and engage in an open and transparent dialogue with us on any issue concerning its implementation.

I thank you.

* * *

STATEMENT BY THE UNITED KINGDOM

*William Ehrman**

Abstract

To achieve full implementation of UNSCR 1540, the United Kingdom believes that outreach activities such as meeting the needs of individual States, encouraging them to develop action plans and promoting bilateral and multilateral assistance programmes are important steps. To that end, the UK stands ready to assist countries in the preparation of their national reports.

I am very pleased to be here — not least because I was responsible for counter proliferation within the British Foreign Ministry when resolution 1540 was passed, but also because the resolution stemmed from a British initiative.

Resolution 1540 remains a keystone in the international non-proliferation effort. It is still the only place in the system where we bring together the risk posed by WMD proliferation and their means of delivery as a whole, not in separate Treaty regimes. The UK considers it to be a vital part of the international architecture.

* *William Ehrman* is Ambassador of the United Kingdom to China.

In the past two years, the 1540 Committee has taken some essential steps to implement the resolution. Its work set out a baseline for assessing the state of the international non-proliferation system. UNSCR 1673, passed on 27 April 2006, which extended, and expanded, the 1540 Committee's mandate, underlined the commitment of the international community to taking forward implementation of this important resolution.

In the Committee's report to the Security Council submitted shortly before the passage of resolution 1673, particular focus was given to outreach. That we are gathered here today shows a willingness to take the Committee's recommendations seriously. Meeting the needs of individual States, encouraging States to develop action plans, and promoting bilateral and multilateral assistance programmes are important steps towards achieving full implementation of resolution 1540. In the same way, we should seek to unlock the potential from international and regional organizations, both as technical assistance providers and in the development of good practice.

One of the first sessions of this meeting will cover national experiences in preparing 1540 reports. The UK gained much from preparing its own national report. It was our first attempt to bring together this information in a coherent fashion. As a result, new relationships were formed across government that made our overall approach to non-proliferation more joined-up. I hope new relationships will also be formed here in Beijing that will allow a sense of comradeship among those from different nations working on the same, important, international objectives — to prevent the proliferation of WMD.

The UK will continue to play an active role in the Security Council and internationally to assist in the imple-

mentation of resolution 1540. In our national reports to the Security Council we offered to make assistance available to those countries which require it in order to implement the resolution fully. Let me reiterate that offer today and encourage those who would take it up to contact my Foreign Ministry, directly or through our Mission in New York, with their request, so that we can put our words into action.

Notes

[1] S/2006-257 at http://disarmament2.un.org/Committee 1540/index.html.

* * *

Session I:

Overview of the current status of implementation of the resolutions

NATIONAL EXPERIENCE IN PREPARING A REPORT

*Ma Shengkun**

Abstract

To prepare its national report, China implemented a plan that embraced a clear-cut non-proliferation policy and a complete export control system; a solid foundation for the report; a specialized drafting group led by the Chinese Foreign Ministry; an account of its national situation; strengthened coordination and communication with the 1540 Committee of Experts; and full use of the internet for greater access to the information contained in the report.

I am pleased to have the opportunity to share with you our experience in preparing the national report on implementation of UNSCR 1540. Since its adoption in 2004, one hundred and thirty-one countries have submitted national reports and eighty-four have submitted additional information.

As we know, each country has its unique conditions and adopts different policies, measures and practices in non-proliferation export control. Each country will inevitably encounter problems of its own while preparing the report. It is therefore hoped that

* *Ma Shengkun* is Director, Department of Arms Control and Disarmament, Ministry of Foreign Affairs, Beijing.

through our discussions, we can learn useful lessons from each other's experiences and practices.

China was among the earliest to submit its national report and additional information. We have already elaborated China's non-proliferation policies and position and introduced the measures it has taken to prevent and combat proliferation activities of non-State actors from perspectives of legislation, law enforcement and international cooperation. Now, I would like to share with you China's experience and practices in preparing its national report.

First, a clear-cut non-proliferation policy and a complete export control system are the basic requirements of a national report. Proliferation of WMD and their means of delivery is not in the interest of world peace, security and stability, nor does it conform to China's interests. China firmly opposes proliferation activities of any form. Based on this policy, the Chinese Government has made great efforts with fruitful results in non-proliferation-related legislation, law enforcement and international cooperation and has established a complete export control system which has provided abundant materials.

Second, attaching great importance to resolution 1540 is an important requirement. As such, China attached great importance to its adoption by the Security Council and participated in the whole process of consultation, adoption and implementation. Immediately following the adoption, the resolution's full text was published on the web site of the Ministry of Foreign Affairs of China and the Chinese Government required relevant state organs and local governments to understand and implement the resolution in real earnest, and to strengthen the work in relevant fields. These efforts have laid a solid foundation for the national report.

Third, China set up a specialized drafting group led by its Foreign Ministry with the participation of all the rele-

vant agencies and departments of the Chinese Government. As a first step, relevant departments were brought together to discuss the framework of the report. Its contents were then drafted by the designated persons and experts from relevant departments who put forward their suggestions and offered necessary technical support during the drafting process. Following completion of the draft, relevant departments thoroughly reviewed the framework and contents of the report. The result was a full and accurate national report that met all the resolution's requirements.

Fourth, we drafted our national report by taking into account China's national situation. Since the Hong Kong and Macao Special Administrative Regions (SAR) have their own export control legislations and law enforcement systems, relevant contents were to be reflected in the national report. Therefore, the central government informed the two SAR governments to provide relevant information on implementation of the resolution which the drafting group then incorporated into the national report. This approach maintained the completeness of the report.

Fifth, it is important to strengthen coordination and communication with the 1540 Committee of Experts. After we completed the first national report, the expert group made a standard matrix for the submission of additional information by each State which has put forward new requirements for our work. Through frequent communication and discussions with the experts on the issues related to the matrix, we learned from their advice and further improved our report and the additional information.

Sixth, we made full use of the internet to provide greater access to the information contained in the report. Our national report gave a complete list of all relevant regulations and lists. However, such a general introduction would not be sufficient for States or individuals conducting comprehensive

research on China's export control system. To solve this problem, we made full use of the web sites of relevant government departments to publish the full text of each regulation and list in both the Chinese and English languages in most cases. To facilitate data searching, we included the web site of the Chinese Ministry of Foreign Affairs, which provides links to all the aforementioned regulations and lists. This practice contributed greatly to the establishment of the database on national export control regulations by the 1540 Committee. All are welcome to browse these web sites.

Finally, I wish to point out that the submission of the national report is not the fundamental goal of the resolution. The key is to strictly implement it and follow its specific requirements. In the case of China, preparing the report was a precious opportunity for us to advance the non-proliferation work. Our next step will be to improve our non-proliferation export control, faithfully implement resolution 1540 and make our own contribution to the non-proliferation process.

We are now ready to learn from your useful experiences and practices.

* * *

UNSCR 1540 NATIONAL REPORT: THE ROK EXPERIENCE

*Jong Kwon Youn**

Abstract

Preparing and submitting the national report facilitates implementation of the resolution by Member States and increases its universality. The presentation explains the importance of the report, discusses its main components and the function of the 1540 Committee's matrix. It also defines common problems that could occur in preparing the report, presents two different scenarios and suggests possible solutions, drawing from the Korean experience.

The purpose of this presentation is to emphasize the important role that national reports play in implementing UNSCR 1540 and to suggest possible ways to facilitate report submission by Member States in the Asia-Pacific. I will define some common problems that States face in the course of preparing their national reports and suggest possible solutions, drawing from the Korean experience.

The presentation will proceed with the answers to three questions. First, what is the current status of report submission in the Asia-Pacific, and how well are

**Jong Kwon Youn* is First Secretary, Disarmament and Non-proliferation Division, Ministry of Foreign Affairs and Trade, Seoul.

we doing with the 1540 "homework"? Second, we need to understand why national reports are important. In what way can national reports contribute to the implementation of the resolution? The final question is how can Member States reduce the difficulties they face in the reporting process?

Current status of national report submission

As of July 2006, a total of 131 UN Member States, about 68%, had submitted their national reports. In addition, 84 of those 131 States had also submitted "additional information" or second reports.

Among the Asia-Pacific States, 42 out of 55 States (73%) have submitted their national reports, which is slightly above the average. Among the five regional groups in the United Nations, the lowest and the highest rates were 32% and 100%, respectively. While it is true that the Asia-Pacific countries have not received a failing grade, further improvement is possible and desirable.

Importance of the national report

UNSCR 1540 called upon all Member States to submit their first report "on steps they have taken or intend to take to implement this resolution" by October 2004. Although a national report does not guarantee implementation of the resolution in itself, it holds great importance as it increases the effectiveness of the resolution in two ways.

Domestically, the reporting experience facilitates implementation. It helps a government find loopholes in legal frameworks and choke points in the enforcement process. Secondly, by sharing information with other countries, each government can learn more about how to effectively implement the resolution.

Internationally, it can accelerate internalization of the resolution by all Member States. The number of national reports submitted can function as an indicator of the international community's commitment to the resolution and, in turn, as the number of submissions increases, international confidence in UNSCR 1540 is also enhanced. This can encourage other Member States to submit their own report, if they have not already done so.

What should the report contain?

The web site of the 1540 Committee provides Member States with detailed instructions on reporting. The gist of the instructions is that Members should lay out the "steps they have taken or intend to take" in implementing the first ten operative paragraphs of the resolution. Among the ten operative paragraphs (OPs), focus should be on OP2 and OP3, which state that Member States "shall adopt and enforce appropriate laws" to prohibit non-State actors from having access to weapons of mass destruction (WMD), and "take and enforce effective measures to establish domestic controls" to prevent WMD proliferation.

The Committee analyzed the national reports by using a matrix format, focusing on the steps taken to implement OPs 2 and 3. The matrix is divided into three sections (nuclear, biological, and chemical weapons) and poses two questions: the existence of the laws to prohibit non-State actors from having access to WMD, and the provisions to penalize and punish violators. Answers to these questions are the main components of the national report.

What makes reporting difficult? : Two cases

Careful reading through domestic laws and provisions, then, would be all it required to produce a national

report. But the problem might not be that simple for some Member States. We can summarize them in two typical cases. Case 1 can be termed the "Absence of Infrastructure". This arises when a country has almost no WMD-related activities and their means of delivery; therefore, there is no legal framework to regulate WMD or terrorism-related activities. Other countries might not have sufficient administrative resources for reporting. Some may lack both. For example, a country without an industrial base or with very little foreign trade may not have the legal framework and the administrative branches to regulate the transfer of materials related to chemical weapons.

Case 2 can be termed the "Coordination Problem". A government may recognize the need to implement resolution 1540 and submit the national report, but this process might be a tough one. It is not surprising to find perception gaps among different administrative bodies on the priorities in implementing any laws or regulations, and a government often finds it difficult to agree on how to amend them or the future implementation plan. Existing loopholes and the complexity of legal and administrative frameworks can be root causes of such a coordination problem.

Possible solutions for Case One

Case 1 is a situation in which a country either does not have something to regulate or the means to do so. In such cases, a possible solution is to take a "constitutive approach". Its gist is to introduce a new domestic law similar to UNSCR 1540, using it as model legislation.

Some might question the utility of such legislation. However, even if there is no reality to be regulated, it is undeniable that international cooperation is essential in addressing the threats of WMD proliferation and terrorism. OP10 calls upon all Member States to "take cooperative action to prevent

illicit trafficking" of WMD and related materials. Export control remains the key in domestic implementation.

[A] Government [that] is facing a heavy administrative burden can benefit from the use of the Committee's matrix. An important but less known function of the matrix is that countries can use this as an 'answer sheet' to provide information related to the implementation of the resolution.

After submitting its first report in October 2004, the Government of the Republic of Korea (ROK) received the matrix containing the 1540 Committee's reading of our report. We submitted the additional information using the same matrix, achieving great time and at a cost-savings. Moreover, by using the matrix as an answer sheet, we were able to acquire a deeper understanding of our own regulatory framework.

Possible Solutions for Case Two

Solutions to the coordination problem are more complicated. The problem arises mainly because different administrative branches have distinct missions and priorities. Furthermore, the existing rhizome of domestic laws and regulations were raising the cost of amendments to a very high level. The ROK was a typical Case 2 country. Some regulatory agencies considered the national report to be an extra burden, while others lacked adequate information on UNSCR 1540 itself. All Ministries recognized the importance of strict export controls, but sought to keep their administrative costs to a minimum.

From our experience, a two-fold strategy of persuasion and minimalism is required. The starting point is to share the sense of urgency and importance of UNSCR 1540 among related agencies. A national government must recognize that the number of reports submitted — a sort of indicator of the

resolution's universality — shows that it has already crossed the "tipping point" to the universal norm against WMD proliferation. The preferences of an administrative branch may change quickly once it realizes that the cost of non-implementation of the resolution could be very high.

Another point is to limit the scope of legal revision to a minimum. For example, we decided to revise the law on the implementation of the Chemical Weapons Convention to encompass the Biological Weapons Convention in its scope, instead of enacting new legislation. Enforcement decrees and regulations were the first targets of amendment rather than the law — not to let the best be the enemy of the good.

Summary

Preparing and submitting the national report is a very important first step in implementing UNSCR 1540. It facilitates implementation of the resolution by Member States and increases its universality. Reporting is not as difficult as it appears: the 1540 Committee's matrix can be an easy answer-sheet, and administrative burdens can be kept at a low level by taking a constitutive or minimalist approach. The key to success is close cooperation and coordination among the related agencies based on a common understanding of the importance and urgency of the non-proliferation of WMD. Political will — or at least leadership by the national point of contact (POC) — is also indispensable.

* * *

CHAIRMAN'S SUMMARY: OVERVIEW OF THE CURRENT STATUS OF IMPLEMENTATION OF RESOLUTION 1540

*Peter Burian**

Presentations:

1. Current status of the implementation of UNSCR 1540, particularly in the Asia-Pacific region (Gunterio Heineken, Expert, 1540 Committee)

2. National experience in preparing a report – China (MA Shengkun), Republic of Korea (Jong-kwon Youn)

Based on presentations and an interactive discussion during the Session, I can draw the following general conclusions and observations:

1. Implementation of UNSCR 1540 remains a vital element in global and national efforts to prevent proliferation of WMD, their means of delivery and related materials and to keep these deadly weapons out of the hands of terrorists and other non-State actors.

2. Monitoring the implementation of UNSCR 1540 is a prerequisite to identifying the gaps that exist and assisting States to fulfill the requirements under the resolution. In this regard, some speakers have suggest-

* *Peter Burian* is the Chairman of the Security Council Committee established pursuant to Resolution 1540, New York.

ed that the Committee should intensify steps to assure full implementation of the resolution.

3. National implementation and reporting is the key to the effective attainment of resolution 1540s goals and objectives. It was noted that thirteen States from the Asia-Pacific region have yet to provide their first national report (twenty-three States have provided additional information to the Committee).

4. Participants noted and welcomed the G-8 demarche encouraging States that have not yet done so to send their national reports on the implementation of UNSCR 1540 to the Committee.

5. Speakers stressed the importance and usefulness of outreach activities to promote the full implementation of UNSCR 1540. Those activities should be widened and intensified with a view to providing, in a structured manner, guidance to States for implementing the obligations under the resolution. In this context the initiative of the Chinese government to convene and host the first seminar on implementation of UNSCR 1540 was highly commended. The need for follow-up events on subregional and national levels was also stressed.

6. The seminar provided a very useful forum for exchange of opinions and discussions on best practices to achieve full implementation of UNSCR 1540. It might be useful to consider using the structure of this seminar for organizing the outreach activities planned to take place in Ghana and Peru at the end of the year.

7. National practices in implementing UNSCR 1540 should continue to be identified with a view to providing further general guidance to States that are seeking assistance in implementing the resolution. In this regard, States are encouraged to enter into contact with the Committee concerning assistance needed for addressing implementation

problems.

8. Participants raised an idea of model legislation and model action plans to address implementation of the resolution. In this regard, it was underlined that while national experience and best practices in implementing UNSCR 1540 may serve as a source of inspiration, every country has its unique conditions and specific situation. That is why every country has to define its own way to address the implementation.

9. At the same time, drawing on lessons learned and sharing experience from the implementation of UNSCR 1540, preparing the national report and establishing national interagency coordination mechanisms could be a useful way to provide guidance to countries that face some administrative or technical difficulties as well as lack of capacities.

10. The utility of the matrix as a tool for filling gaps in national legislation and for implementing UNSCR 1540 was stressed by participants during discussion.

11. Presentations of national experience on preparing national reports by the People's Republic of China and the Republic of Korea provided useful insight on practical solutions and important prerequisites for addressing the requirements of UNSCR 1540 and elaborating a comprehensive report.

12. Those prerequisites include: a clear-cut non-proliferation policy, establishment of a functioning export control system and legislative framework, establishment of an interagency coordination mechanism for addressing the implementation requirements, reflection of national conditions and specifics in the report, strengthening coordination and communication with the 1540 Committee and its group of experts, etc.

13. Finally, it was stressed that the submission of the national report is not the end goal of resolution 1540. The key is to strictly implement the resolution in practice and follow its specific requirements.

14. Last but not least, preparing the report is an important opportunity to create a coherent system of legislative and administrative measures to improve non-proliferation arrangements and protection of the country against the threat of WMD falling into the hands of non-State actors.

* * *

Session II:

National implementation experiences on prohibitions specific to UNSCR 1540

NATIONAL IMPLEMENTATION EXPERIENCES ON PROHIBITIONS SPECIFIC TO RESOLUTION 1540 — THE CASE OF INDIA

*Naveen Srivastava**

Abstract

India has the appropriate legal framework and the necessary administrative and regulatory mechanism in place to implement and enforce the provisions of law to meet the requirements of UNSCR 1540. The presentation highlights India's legal system in relation to the resolution.

- Proliferation of WMD and the possibility of their linkage to terrorism represent a major challenge
- India understands the dangers and is committed to prevent WMD proliferation
- Preventing access to WMD and their means of delivery to anyone, particularly non-State actors, is a matter of national policy
- India does not support, assist or encourage any State to develop WMD and their means of delivery
- India has placed strict controls on export related materials, equipment and technologies

* *Naveen Srivastava,* Ministry of External Affairs, New Delhi.

• UNSCR 1540 is a logical continuation of the process initiated in the General Assembly with its resolution 57/87 entitled "Measures to prevent terrorists from acquiring weapons of mass destruction" adopted in November 2002.

Implementation in India

India has implemented a substantive corpus of domestic laws, regulations and administrative measures to prevent the proliferation of WMD:

• Narcotic Drugs and Psychotropic Substances Act, 1985

• Environment Protection Act, 1986

• Atomic Energy Act, 1962

• Chemical Weapons Convention (CWC) Act, 2000

• Customs Act, 1962

• Arms Act, 1959 and The Arms Rules, 1962

• Foreign Trade (Development and Regulation) Act, 1992

• Unlawful Activities (Prevention) Amendment Ordinance, 2004

• Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005

• List of Special Chemicals, Organisms, Materials (SCOMET) for export control purposes

Institutional Framework

• Department of Atomic Energy

• Department of Chemicals and Petrochemicals

• National Authority, CWC

• Ministry of Environment and Forests

• Department of Biotechnology

- Ministry of Defence
- Ministry of Home
- Ministry of External Affairs
- Department of Space
- Directorate General of Foreign Trade (DGFT)
- Ministry of Finance (Central Board of Excise and Customs)

Unlawful Activities (Prevention) Amendment, 2004

Provisions relevant to UNSCR 1540: OPs 1, 2, 3(a) and (b)

- Section 10 covers any person, who is in possession of any substance capable of causing mass destruction or commits any act resulting in loss of human life or grievous injury;
- Section 15 defines a terrorist act: *inter alia,* involving the use of bombs or other lethal weapons or poisons or noxious gases or other chemicals or any other substances of hazardous nature. The definition covers terrorism aimed against India as well as other countries;
- Section 23 (1) provides that such a person be punishable with imprisonment for a term not less than five years extendable to life imprisonment;
- Section 23 (2) covers any person who, with intent to aid any terrorist, attempts to contravene or abets in such an act and provides for punishment, including imprisonment starting from a term of five years up to ten years;
- Section 16 minimum punishment of five years, extendable to life imprisonment, for committing terrorist acts, including involving weapons of mass destruction. Death penalty may also be imposed;

• Sections 17, 18, and 19 criminalize and provide for minimum punishment for funding such acts; conspiring to commit, or aiding and abetting such activities or any act preparatory to the commitment of a terrorist act; and harboring and concealing, including the attempt to do so, persons engaged in such activities.

• Financing of terrorism is also regulated under the Foreign Exchange Management Act (FEMA), 1999 and the Prevention of Money Laundering Act (PMLA), 2002.

Weapons of Mass Destruction (Prohibition of Unlawful Activities) Act, 2005

• Integrated and over-arching law that supplements the existing corpus of legislation

Three main objectives

• Prohibits unlawful activities related to WMD and their delivery systems;

• Prohibits transfer of WMD, missiles specially designed for their delivery, and WMD-usable materials, equipment and technologies to terrorists; or transfer of fissile or radioactive material for use in terrorist acts;

• Updates existing controls over the export of WMD-useable goods and technologies.

Provisions relevant to UNSCR 1540: OPs 1, 2, 3(a) and (b)

• Section 8(1) prohibits unlawful manufacture, acquisition, possession, development, transportation of a nuclear explosive device or a nuclear weapon and their means of delivery;

• Section 8(2) prohibits unlawful transfer, directly or indirectly, to anyone of a nuclear weapon or other nuclear explo-

sive device, or control over such a weapon;

- Section 8(3) & (4) prohibit unlawful manufacture, acquisition, possession, development, or transport of a chemical or biological weapon or their means of delivery;
- Section 8(5) prohibits unlawful transfer to anyone of missiles specially designed for the delivery of WMD;
- Civil as well as criminal penalties:
- Sections 14, 15(1) minimum punishment of five years extendable to life imprisonment for violation of provisions related to WMD or their means of delivery, as well as in the case of provisions involving terrorists, including with an intent to aid terrorist acts;
- Section 15(2) punishment of a minimum imprisonment of five years extendable up to 10 years for anyone who attempts to contravene or abet the contravention of any provisions of the Act with intent to aid terrorists.

Chemical Weapons Convention Act, 2000

Provisions relevant to UNSCR 1540: OPs 1, 2, 3 (a) and (b)

- Sections 13–17 prohibit development, production, stockpiling, retention, and use of any chemical weapon by unauthorized persons. Prohibit unlawful acquisition and direct and indirect transfers of chemical weapons. Implement provisions related to Schedules 1, 2 and 3 of the CWC, including those relating to transfers of such chemicals;
- Sections 40–43 criminalize and provide for punishment with imprisonment for a term not less than one year, which may extend to life imprisonment and financial liability in case of contravention of any provision of the Act;

• Covers any substance liable to cause harm to human beings, other living creatures, plants, micro-organisms;

• Covers manufacture, processing, treatment, package, storage, transportation, use, collection, destruction, conversion, offering for sale, transfer of such substances;

• Contravention of the provisions of the Act is punishable with imprisonment of up to five years;

• Rules for Manufacture, Use, Import, Export and Storage of Hazardous Micro-organisms and Genetically Engineered Organisms or Cells (1989);

• Bio-Safety Committee monitors projects from the point of view of safety and any biohazard potential. More than 300 such committees exist all over the country.

Atomic Energy Act, 1962

Provisions relevant to UNSCR 1540: OPs 1, 2, 3 (a) and (b)

• Section 14 prohibits acquisition, production, possession, use, disposal, export or import of prescribed substances, prescribed equipment and plants, except under license;

• "Prescribed substances" notified by the Government which, in its opinion, are or may be used for the production or use of atomic energy or research;

• "Prescribed equipment" is notified property which is specially designed or adapted, or which is used or intended to be used for the production or utilization of any prescribed substance, or for the production or utilization of atomic energy, radioactive substances, or radiation;

• Section 16 prohibits the manufacture, possession, use, transfer, export, import, transport and disposal of any radioactive substance without Government's permission;

• Section 17 provides for measures to secure use, transport and storage of such substances and equipment;

• Nuclear Material Accounting Cell under the Department of Atomic Energy (State System of Accounting and Control);

• Section 24 Contravention is punishable with imprisonment of up to five years or with fine, or both.

Formal System of Export Controls in India

Elements Relevant to UNSCR 1540: OPs 3 (c) and (d), 6, 10

• Notified list of Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET)

• Export of items listed on this list and related technology is either prohibited or permitted only under license

• List is notified in the Export Policy by the Directorate General of Foreign Trade (DGFT)

• General Criteria/Guidelines for licensing also notified by the DGFT

• Inter-agency mechanism for approving license applications

SCOMET List

Penal Provisions for Export Violations

Provisions relevant to UNSCR 1540: OPs 3(c) and (d), 6 and 10

• Foreign Trade (Development and Regulation) Act (FT(D&R)), 1992

- violation of export license conditions leads to fiscal penalty as well as suspension/debarment from further imports and exports;

• Customs Act, 1962

- criminal liability for violations of FT(D&R) Act;
- punishment of imprisonment or fine, or both.

• WMD Act, 2005

• Civil/Criminal penalties are also included in other acts (e.g., Arms Act, Atomic Energy Act) for violation of their provisions.

Category 0	Nuclear materials, nuclear-related other materials, equipment and technology
Category 1	Toxic chemical agents and other chemicals
Category 2	Micro-organisms and toxins
Category 3	Materials, materials processing equipment, and related technologies
Category 4	Nuclear-related other equipment and technology, not controlled under Category 0
Category 5	Aerospace systems, equipment, including production, test equipment and related technology
Category 6	Reserved
Category 7	Electronics, computers, and information technology, including information security

Weapons of Mass Destruction Act, 2005

Provisions relevant to UNSCR 1540: OPs 3(c) and (d), 6 and 10

Upgrade of Export Controls

- Transit and trans-shipment controls
- Re-transfer controls
- Technology transfer controls
- Brokering controls
- End-use based controls

Graded penalties for export control violations

- Civil and criminal liability: minimum punishment of six months extendable to five years;
- For repeat offences, the minimum punishment is one year extendable to seven years;
- Civil penalties for violation of technology transfer controls with criminal liability for repeat offences;
- Fiscal penalties for making false declarations or forging documents.

Guidelines for Licensing

- General criteria for evaluation of license applications:
  - National security considerations
  - Foreign policy goals and objectives
  - Objectives of global non-proliferation
  - International obligations pursuant to treaties and conventions to which India is a party

- Credentials of end-user
- Credibility of stated end-use of item/technology
- Assessment of the end-uses of the item
- Integrity of chain of transmission from exporter to end-user
- Capabilities of the recipient State
- Export control measures instituted by the recipient State
- Assessed risk of diversion to terrorists
- Additional requirements for items of greater sensitivity:
    - Formal assurances from the recipient State on non-use in nuclear explosive activity and non-transfer
    - Appropriate IAEA safeguards
    - Adequate physical protection.
- End-use based controls:
    - Weapons of Mass Destruction and their Delivery Systems Act (Prohibition of Unlawful Activities), 2005
    - DGFT Public Notice No. 29 (RE-05)/2004-2009
    - The Atomic Energy Act, 1962

Enforcement

- Various agencies of the Government are empowered to enforce the provisions of the laws and the rules, regulations and orders issued thereunder
- Core Group on Training on SCOMET Enforcement
- Preventive Enforcement

Industry Outreach

Provisions relevant to UNSCR 1540: OP 8 (d):

- Government is fully conscious of the importance of partnership with the industry for the success of an effective export control system
- Continuous Government-Industry interaction as well as inter-ministry coordination is maintained
- Outreach meetings are routinely conducted by the relevant Departments to increase awareness among the exporter community

Summary

- India has the appropriate legal framework required under UNSCR 1540 in place.

- India has established the necessary administrative and regulatory mechanism to implement and enforce the provisions of law, which also meets the requirements of the resolution.

* * *

AUSTRALIA: IMPLEMENTING PROHIBITIONS SPECIFIC TO UNSCR 1540

*Sophia McIntyre**

Abstract

Some requirements under UNSCR 1540 might be considered at the "cutting edge" of export control practice. These include controls on intangible transfers of technology, brokering activities, trans-shipped materials and proliferation financing. The presentation focuses on those areas then briefly outlines measures that Australia has taken to meet the resolution's requirement to place effective domestic controls over sensitive materials.

As stated in earlier presentations, UNSCR 1540 is the first international instrument to impose an obligation on all States to take comprehensive measures to address the threat posed by weapons of mass destruction (WMD) and their means of delivery. To meet that obligation, States can take measures that are specific to resolution 1540 — that is, those obligations which complement and build on the existing responsibilities arising from membership in the core non-proliferation treaties.

* *Sophia McIntyre* is Head of the Australia Group Secretariat, Department of Foreign Affairs and Trade, Canberra.

In considering the scope of these obligations, it is worthwhile to briefly consider the resolution's objective as it relates to expanding States' obligations. Recognizing the threat posed by the spread of WMD to global peace and security, resolution 1540 was adopted with the intention of addressing shortfalls in the international non-proliferation architecture. It was the first international instrument to require States to take specific steps to prevent non-State actors from acquiring WMD and their means of delivery and to call for the introduction of measures to prevent illicit trafficking in those weapons, delivery systems and related materials. The new obligations imposed by UNSCR 1540 are directed at achieving this goal.

Intangible transfers of technology

The requirement to implement controls on intangible transfers of proliferation sensitive technology is inherent in the obligation to control the provision of services that would contribute to proliferation under UNSCR 1540. The term "intangible transfers of technology", or ITT, refers to the transmission or provision of technology through intangible means. It includes the transfer of knowledge as technical assistance, such as instruction or skills training and the transfer of technical data in non-physical form, for example, via email, fax or over the Internet. ITT is one of the most difficult areas to enforce precisely because transgressions are intangible. Clearly, there are many deliberate or inadvertent ways that potentially damaging information can be passed and the notion of applying controls to all such transactions is a daunting one. However, one relatively straightforward way of addressing this problem is through activities that raise awareness of proliferation risks among such communities as academia and the biotech sector, which may be targeted for information for procurement purposes.

Australia's national export control system imposes controls over ITT through our "catch-all" control. In addition, *The Weapons of Mass Destruction Act* (1995) applies to:

- the supply of goods and services both within and outside Australia for a WMD programme;
- the export of goods and technologies not controlled under other legislation and where it is known or suspected that the goods may be used in a WMD programme;
- controls over the unauthorized provision of services, such as transportation, transfer of sensitive information or financing, which may contribute to the proliferation of WMD or their means of delivery;
- a "catch-all" control to prevent exports to end-users of concern which are not otherwise classified as controlled items;
- in-built legislative mechanisms for the efficient updating of control lists to guarantee responsiveness to new technologies and emerging threats;
- controls on the activities of brokers to prevent diversion of controlled goods;
- controls and checks applied to trans-shipped and transited materials;
- end-user assessment criteria and verification mechanisms;
- domestic awareness raising activities to alert industry and research sectors to proliferation risks and inform them of their responsibilities under export control legislation;
- effective enforcement procedures, including container screening and targeted checks on cargo; and
- civil and criminal penalties for violations of export control requirements.

Since export controls will be discussed in more detail in a subsequent session, I would like to focus on some of the requirements introduced by UNSCR 1540 which might be

considered at the "cutting edge" of export control practice: namely controls on intangible transfers of technology, brokering activities, trans-shipped materials and proliferation financing; then briefly outline what Australia is doing to meet the resolution's requirement to place effective domestic controls over sensitive materials.

What measures, therefore, do States need to introduce to meet these objectives and fulfill their obligations under the resolution? Some of the paving stones on the path to compliance have already been laid, while other new and often challenging measures are currently the subject of discussion and consideration at both international and national levels.

One of the central obligations arising out of resolution 1540 is the requirement to introduce an effective export control system. Many States have already introduced effective and comprehensive export control systems as a means of implementing their obligations under the core non-proliferation treaties — the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), Chemical Weapons Convention (CWC) and Biological Weapons Convention (BWC) — which go a long way to address the proliferation threats posed by non-State actors and illicit trafficking activities. These systems vary in their approach to controlling WMD, their means of delivery and related materials. A brief description of elements that could be integral to an effective export control system, which also meet the obligations imposed by UNSCR 1540, might include:

- robust legislation establishing a licensing and enforcement system;
- clear designation of agencies responsible for export licensing and enforcement and good consultation and cooperation between these agencies;
- comprehensive control lists to prevent the unauthorized export of nuclear, chemical or biological weapons, their means of delivery and related-materials;

• the provision of goods and services, inside and outside Australia, where it is known or suspected that they will or may potentially assist a WMD-programme.

The Australian Government has an active domestic outreach programme led by the Departments of Defence and Foreign Affairs and Trade. These agencies are currently engaging Australia's universities and tertiary institutions to ensure that WMD-related technology cannot be exploited for use in WMD-programmes. Outreach in this field is not always a straight forward exercise, as discussion of controls on what is, in effect, knowledge, must be carefully balanced with the need to share knowledge and information in the pursuit of legitimate scientific research. In our experience, sharing information with other countries undertaking similar outreach programmes has been very helpful to improve and further hone the effectiveness of these activities.

Brokering

Resolution 1540 specifically requires States to adopt controls on brokering activities which may contribute to the proliferation of nuclear, chemical or biological weapons, their means of delivery and related materials. The exposure of the nuclear procurement network operated by AQ Khan highlighted the importance of controls on brokering activities involving WMD-relevant goods in preventing proliferation. While a number of countries already have controls in place over brokering activities involving conventional weapons or military items, the requirement to place controls on WMD-relevant dual-use materials is a relatively new area for most, as many countries are just now starting to grapple with this obligation. For example, Australia is in the process of introducing additional controls on brokering activities involving dual-use chemical, biological and nuclear items contained in our national export control lists.

The issue is also receiving increasing attention in export control fora, with the commencement of discussions on brokering controls within the Missile Technology Control Regime and the Australia Group. The recent Australia Group plenary endorsed a proposal to hold a seminar to further efforts to identify best-practice controls on brokering activities, and the Republic of Korea has offered to host the event in early 2007.

Trans-shipment

The resolution imposes another new obligation on States — the requirement to control materials subject to transit, trans-shipment and re-export. Unfortunately, the free movement of goods, which is important for economic growth, provides unwelcome opportunities for proliferators to seek WMD materials. Sensitive goods which transit or are trans-shipped through an intermediary country are at an increased risk of being diverted to an unauthorized end-user. Trans-shipped goods, in particular, are vulnerable to being re-packaged or altered in some way to disguise their origin and/or content and forwarded (or re-manifested) to another destination. This process, which may also involve the use of front companies, can effectively disguise both the country of origin and the true destination of the goods. Transited goods are not vulnerable to re-packaging and re-manifestation in the same way, but can be subject to interference on board the transporting vehicle.

To prevent the diversion of sensitive goods during trans-shipment, Australia applies the same level of control to trans-shipped goods as it applies to its domestic goods. As transit cargo is not always required to be reported to border control agencies, the enforcement of controls is clearly more difficult. Intelligence is therefore vital to detecting the illicit movement of goods in transit. The risk of diversion of sensi-

tive goods may be reduced during the export licensing process, if factors such as the export controls applied to transit/trans-shipped items by any intermediary country through which the goods will pass and any intelligence which suggests the goods are vulnerable to diversion are taken into account. To reassure the exporting country that the goods will arrive at their destination, a licensing authority may wish to request a Delivery Verification Certificate. If a licensing authority finds there is an unacceptable risk of diversion during transit/trans-shipment, then the license should be denied.

Proliferation financing

Resolution 1540 requires controls to be implemented to prevent the financing of activities that would contribute to proliferation. Australia already has a legislative framework in place to address this problem, but we are currently examining whether such measures are sufficient in what is a new international climate of concern over financing activities not only in this area, but also in the area of counter-terrorism. Financing issues will continue to receive increasing international attention.

Domestic controls

The final obligation arising from resolution 1540 does not involve export controls, but is closely related. It is the requirement for all States to introduce domestic controls to safeguard nuclear, chemical or biological weapons, their means of delivery and related materials against misuse. In the light of evidence that most terrorists will attempt to source materials domestically in the first instance, the implementation of domestic controls is core to our national defenses against a terrorist attack using chemical, biological, radiological or nuclear materials. In response, Australia is undertaking a nationwide review of the regulation, reporting and secu-

rity around the storage and the sale and handling of hazardous materials. This review, to be concluded by the end of 2006, encompasses controls on biological materials, hazardous chemicals and radiological sources as well as explosive precursors.

Other initiatives to help States meet the obligations of UNSCR 1540

Not even the most comprehensive export control systems currently in place are without failures. We need to remain alert to ways in which we can fine-tune our existing systems to ensure that they remain current and responsive to new and emerging challenges, as well as focused on developing innovative new measures which enhance national capabilities to detect, deter and prevent and combat illicit attempts to acquire WMD, their means of delivery and related materials.

UNSCR1540 embodies international consensus to prevent the spread of WMD by requiring all UN Member States to criminalize the proliferation of WMD, enact strict export controls and secure sensitive materials. In addition, it obliges all States to "detect, deter, prevent and combat, including through international cooperation where necessary, the illicit trafficking and brokering [in WMD and their means of delivery] in accordance with their national legal authorities and legislation and consistent with international law". The Proliferation Security Initiative (PSI) — an informal arrangement of countries willing to work together to disrupt WMD-related trade — provides a vehicle to facilitate this cooperation. You are encouraged to consider expressing support for the PSI and we are willing to discuss the Initiative with you on a bilateral basis.

Technical Assistance

Before concluding, I would like to add that Australia recognizes that some States may require assistance in implementing the provisions of UNSCR 1540. Indeed, resolution 1540 itself recognizes that need. We, therefore, stand ready to provide assistance, as appropriate, to the States in our immediate region which lack the legal and regulatory infrastructure, implementation experience and/or resources needed to fulfill the 1540 provisions. We would like to see a complete response from our region.

In particular, you will be aware that Australia and New Zealand are working together to assist Pacific Island States with the preparation of their reports, and we have circulated a short guide and offered them assistance in that task.

It is up to individual States to determine the best means for implementing all obligations arising from resolution 1540 in accordance with their national constitutional and legislative framework. The implementation of controls in these areas is no easy matter; moreover, effective implementation poses a challenge for all States and, in this regard, cooperation and sharing of information and experiences is vital to the development of "best-practice" responses and ensuring that we do not slip behind in our campaign to stop the spread of these deadly weapons.

Conclusion

While the obligations of resolution 1540 are varied and at times complex to implement, the diversity of the threats posed by the spread of WMD demands comprehensive, flexible and innovative responses. It is also clear that the global counter-proliferation net can only be as effective as it is wide. Therefore, the full commitment of all countries is required to

deny proliferators the opportunity to exploit weaknesses in our collective defences.

One-hundred per cent compliance with resolution 1540 would send a strong signal to terrorists and their supporters that there is no country or region available for them to obtain or transfer the materials and technology necessary for WMD. I hope our region will be able to give a one-hundred per cent response to the Security Council's call.

* * *

Session III:

National experiences in implementing measures related to accounting, securing and the physical protection of nuclear, chemical and biological items including related materials and means of delivery

ACCOUNTING, SECURING AND THE PHYSICAL PROTECTION OF NUCLEAR MATERIALS AND INSTALLATIONS

*Peter Colgan**

Abstract

States requiring IAEA assistance should work directly with the Agency and report progress on the fulfillment of their obligations to the 1540 Committee. The presentation describes the various Agency programmes and activities available to States in the areas of legislation, technical capabilities and national export controls and highlights those services.

The International Atomic Energy Agency (the IAEA or the Agency) has many programmes and activities of relevance to UN Security Council resolutions 1540 (2004) and 1673 (2006). By assisting States in preventing nuclear material and related technologies from falling into the hands of non-State actors, these services help States fulfill their obligations under those resolutions.

* *Peter Colgan* is Senior Nuclear Security Officer, Office of Nuclear Security, Department of Nuclear Safety and Security, International Atomic Energy Agency, Vienna.

The Agency's programmes and activities are approved and funded through regular or extra-budgetary funds by its Member States, acting through its Board of Governors and General Conference. The Agency, an independent intergovernmental organization, is governed by its Statute and the decisions of its Member States, acting through its duly constituted policy-making organs. In the context of UNSCR 1540, the Agency is of the view that it may provide assistance to States in accordance with authorized programmes and that such assistance might be useful for States in implementing their international obligations, including those required by UNSCR 1540. The most practical way forward would be for States requiring IAEA assistance to work directly with the Agency and to report progress on the fulfillment of their international obligations, as appropriate, to the relevant bodies — such as the Committee established pursuant to UNSCR 1540.

Some relevant Agency programmes and activities include:

- Legislative assistance to enable States to adopt the necessary legislation to implement instruments under the Agency's purview, such as safeguards agreements and additional protocols, and the Convention on the Physical Protection of Nuclear Material (CPPNM).
- Training of State officials so that they may strengthen States' systems for controlling nuclear material and related technology that would enable States to implement legal instruments to which they subscribe and to tighten national controls.
- Support to States in the development and implementation of high standards of physical protection of nuclear material and nuclear facilities through the elaboration of standards and through training and assessment services.

• Support for States' efforts to upgrade border controls, in order to better detect illicit trafficking of nuclear material and related technology.

Specific Agency activities relevant to the implementation of UNSCR 1540

Legislation

Safeguards Agreements and Additional Protocols

The IAEA safeguards system is designed for the verification of the fulfillment by States of their commitments not to divert nuclear material from peaceful use towards nuclear weapons or other nuclear explosive devices. The Agency's safeguards system contains a number of elements that include commitments relevant to the strengthening of national controls of nuclear material and nuclear-related material and activities:

State System of Accounting for and Control of Nuclear Material (SSAC): Comprehensive safeguards agreements (CSAs) — required for all non-nuclear-weapon States under the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and comparable non-proliferation treaties and agreements — require States to maintain effective SSACs to ensure that nuclear material is accounted for at all times and that any changes in the national inventories are recorded and reported to the Agency. States with additional protocols (APs) in force are also required to provide information to the Agency, *inter alia*, on nuclear fuel cycle-related research and development activities not involving nuclear material.

Export and import controls: IAEA comprehensive safeguards agreements require States to report exports and imports of nuclear material to the Agency. APs expand these export-reporting requirements to certain specified equipment and non-nuclear material.[1] These obligations assume that the States maintain import and export controls that enable them to report such international transfers to the Agency.

Highlights of CSA and AP implementation: In the past four years, representatives of more than 130 States have attended Agency regional and interregional seminars on safeguards agreements, additional protocols and the strengthened safeguards system. The Agency has an outreach programme to encourage and facilitate States' to conclude CSAs and APs. In addition, the Agency also organizes an International Team of Experts (ITEs), comprised of legal and technical experts, to advise States on the adherence to and implementation of international instruments relevant to enhancing protection against nuclear terrorism (see Annex for such instruments). ITEs have visited seventeen countries to date in West Asia, Central America and Southeast Asia.

Convention on the Physical Protection of Nuclear Material (CPPNM)

The CPPNM[2] appears on the list of twelve legal instruments adopted by the United Nations relevant to combating terrorism.[3] It is the only international legally binding undertaking in the area of physical protection of nuclear material aimed at averting potential dangers of the unlawful taking and use of nuclear material. In particular, certain CPPNM commitments are relevant to the control and protection of nuclear material:

Protection of nuclear material: The CPPNM obliges contracting States to ensure the protection of nuclear

material for peaceful purposes at the levels specified in the CPPNM on their territories, ships or aircrafts during international transport.

Export and import requirements: States parties to the CPPNM commit themselves not to undertake, or authorize undertaking international transports (such as the export and import of nuclear material, unless assurances are provided that nuclear material will be protected at the required levels. Parties must also apply the agreed levels of protection to nuclear material during transit from one part of their territory to another, while passing through international waters or airspace.

Measures to prevent, detect and punish offences relating to nuclear material. Parties are obliged to make offences under Article 7 of the CPPNM punishable by appropriate penalties under their national law. These offences shall be included as extraditable in any extradition treaty existing between Parties. Parties, which make extradition conditional on the existence of a treaty, may, at their option, consider the CPPNM as the legal basis for extradition in respect of those offences.

Highlights of the adoption of CPPNM and guidance: The Agency's work has contributed to a considerable increase in the number of States that have adhered to the CPPNM from 63 State Parties in 1999 to 95 in 2003 and 116 in 2005. The need to strengthen the international physical protection regime has been widely recognized, *inter alia*, by the Board of Governors and the General Conference. Through the adoption of the Amendment to the CPPNM, the international community has recognized the need to strengthen the existing international legal regime in the area of nuclear security. A set of ***Physical Protection Objectives and Fundamental Principles*** have been endorsed by the Board and the General Conference and incorporated into the amended

CPPNM. These objectives and fundamental principles will be included in a *security fundamentals document* that will serve as further guidance to all Member States. They provide a platform for national and international efforts to improve physical protection of nuclear material, particularly when it is in use, storage and transport. The document underlines the need for a security culture to be implemented at all levels. Document INFCIRC/225/Rev.4 (Physical Protection of Nuclear Material and Nuclear Facilities), revised in 1998, has obtained wide recognition and serves as the basis for physical protection in Member States. The increased number of States requesting Agency support in their implementation is evident that the recommendations contained in that document have been generally accepted. In March 2002, the Agency published the *Handbook on the Physical Protection of Nuclear Materials and Facilities*, which was designed to help physical protection specialists in States to apply the recommendations set out in INFCIRC/225/Rev.4(Corrected) and TECDOC-967, *Guidance and Considerations for Implementation of INFCIRC/225/Rev.3*. The Handbook offers detailed guidance to help physical protection practitioners understand the factors that influence a physical protection system and to help ensure that appropriate physical protection measures are implemented. Further revision of INFCIRC/225/Rev.4 awaited the successful conclusion of the CPPNM amendment process and will now be undertaken.

The Code of Conduct on Safety and Security of Radioactive Sources (the Code)

In undertaking to implement the Code, States are committed to reinforce the responsibilities of manufacturers, suppliers, users and those managing disused sources, for the safety and security of radioactive sources; to establish an effective national system of control over the management of

radioactive sources; to establish legislation and regulations that prescribe and assign governmental responsibilities for the safety and security of radioactive sources; and to provide for the effective control of radioactive sources.[4] In such legislation and regulations, in particular, States are obliged to include security measures to prevent, protect against, and ensure the timely detection of, the theft, loss or unauthorized use or removal of radioactive sources during all stages of management.

Update on implementation of the Code: More than eighty States have made political commitments to the Code; moreover, its *Guidance on the Import and Export of Radioactive Sources* also receives growing attention. Technical meetings related to the implementation of the *Guidance* are attended by over fifty States, including non-Member States.

Technical Capabilities

In order to help States upgrade their ability to control and account for nuclear material and related technologies, the Agency provides advisory services and technical assistance upon their request. The advisory services, carried out by teams of Agency-led international experts, typically result in recommendations for training and technical upgrades, some of which may be requested through various Agency assistance programmes. Much of this type of assistance is provided through the *Nuclear Security Plan (2006-2009)*, approved by the Agency's Board of Governors in September 2005. The Action Plan contains a number of programmes and activities that assist States in strengthening national measures to protect against nuclear terrorism. Agency assistance of relevance to UNSCR 1540 includes the following:

Capacity-building for the maintenance of effective State Systems of Accounting for and Control of Nuclear Material (SSAC)

An effective SSAC is fundamental to a State's ability to: (a) account for and control its nuclear material and to detect possible losses or unauthorized use or removal of nuclear material; and (b) to fulfill its international nuclear non-proliferation obligations. The Agency offers an SSAC advisory service (ISSAS) in which a team of experts, at the request of States, *inter alia*, reviews the legal framework and regulatory, administrative and technical systems of SSACs and evaluates the performance of those systems in meeting safeguards obligations. Recommendations are made and an action plan is formulated in cooperation with the State to improve its SSACs. The follow-up to such missions may involve, e.g., assistance with the procurement of equipment or training of staff from the SSAC authority and from facility operators.

Highlights of implementing SSACs: Two IAEA SSAC Advisory Service (ISSAS) missions and twelve SSAC evaluation missions have been undertaken at the request of Member States from 2002–2005. In addition, eight seminars and workshops on the security and accountancy of nuclear material and technical assistance, including equipment, were provided to three States.

Assistance for physical protection of nuclear material and nuclear facilities

The Agency's programmes in this area aim to strengthen the capacity of States to protect nuclear facilities and nuclear material in use, storage or transport, against malicious acts, by: a) developing internationally accepted recommendations and guidelines for the physical protection of

nuclear material in use, storage or transport and of nuclear installations; b) providing services, upon request, for the evaluation of the national physical protection system, and their implementation at nuclear installations; and c) providing technical advice, expertise, training and equipment for specific security arrangements at various locations.

The Agency's International Physical Protection Advisory Service (IPPAS) helps States improve physical protection by providing recommendations on how to improve physical protection systems at nuclear facilities; convenes a wide range of related training courses, including the Design Basis Threat methodology (DBT); and offers international, regional and national courses for officials from national nuclear operators, regulators, and law enforcement and security authorities.

Highlights in protection activities: In 1999, only two States had requested IPPAS missions. In the three-year period to December 2005, nineteen IPPAS missions were performed in seventeen States, and nine States received IPPAS follow-up missions and other IPPAS follow-up assistance. Workshops on physical protection against sabotage were held in four States and several workshops on self-assessment of engineering measures for prevention of sabotage and on vital area identification were undertaken. In the area of prevention, more than sixty physical protection training events have been conducted in twenty States and over 700 people were trained in physical protection practices. DBT workshops were held in seventeen States and some 350 government experts were trained. Several States have also developed a process of defining DBT. In addition, guidance documents are under development as part of the emerging *Nuclear Security Series*, that will cover such topics as security culture, design basis threat methodology, protection against sabotage, vital area identification, security of radioactive sources, security of

radioactive waste, transport security, development of physical protection regulations and material accountancy.

Detection of malicious activities involving nuclear material

This activity area aims to ensure that effective measures are in place to detect and interdict incidents of theft, illicit possession of and illicit nuclear trafficking in nuclear material. Prevention of these three incidents is by far the most effective strategy, but if preventive measures fail, States need to have in place the means to detect such incidents. The Agency helps achieve this by providing, on request, assessment services, training and technical support, and coordinating the developments by States of up-to-date detection instrumentation. Technical documents providing advice on the detection and response to illicit nuclear trafficking have been issued and the programme of training courses on combating illicit nuclear trafficking is being conducted, at the regional, subregional and national levels. The Agency is also implementing a coordinated research project involving eighteen Member States designed to improve the technical measures available to detect and respond to illicit trafficking.

Highlights of activities in detection of, and response to, malicious acts: In connection with the illicit trafficking coordinated research project (CRP), the Agency established a Nuclear Security Equipment Laboratory (NSEL) in early 2003 for the purpose of facilitating the purchasing, testing and delivery of radiation detection instruments in States. The NSEL consists of a laboratory, calibration sources, equipment and a staff of Agency technical professionals with expertise in the area of radiation detection equipment, using synergies with the established laboratories in the Agency. The Agency has supplied 32 sets of Radiation Portal Monitors (RPMs), 72 Radiation Identification Devices

(RIDs), over 600 Personal Radiation Monitors (PRM or Pagers) and 30 specialist radiation instruments to Member States, either directly with contributed funds, or bilaterally with other donor organizations. Close cooperation with States having bilateral support programmes is initiated to avoid duplication of efforts. For detection and response training, more than 700 front line officers, managers and decision-makers were trained in illicit trafficking principles and practices. Nine States hosted national training courses in the area of detecting and combating illicit trafficking and fourteen regional training courses were conducted, in addition to four international training courses. The Agency participated in assisting the Government of Greece in protecting the 2004 Summer Olympic Games from incidents of nuclear terrorism and, more recently, the Government of Germany in their preparations for the FIFA (football) World Cup. These projects serve the Agency as a multilateral model in helping States to develop effective nuclear security at large public events, and the Agency is currently developing guidance material for States to use when hosting such events. In the area of guidance, three new documents in the new *Nuclear Security Series* have been published. Security Series 1 provides a set of technical specifications for use in design testing, qualifying and purchasing border radiation monitoring equipment, with an emphasis on facilitating the deployment of equipment in States. This document was based on work undertaken through the CRP and by external organizations on the detection of and response to illicit trafficking in radioactive material. Security Series 2 provides comprehensive guidance to States regarding tools and procedures of nuclear forensics investigations in responding to illicit trafficking events involving radioactive materials, and Security Series 3, prepared in cooperation with the Universal Postal Union (UPU) and Interpol, provides a description of techniques and equipment used to detect and control radioactive material in international mail transported by public postal operators.

Information and Coordination

The Agency's Illicit Trafficking Data Base (ITDB) was established to provide an authoritative source of information on illicit trafficking incidents and to help facilitate the exchange of such information among States. Its unique strength is that it is built upon information provided by the States in whose jurisdiction the incident occurred. The Agency disseminates reports on individual incidents and analytical assessments of the information in the database. Eighty-nine States currently participate in the ITDB programme by providing information on trafficking in nuclear and other radioactive materials. The ITDB information is analyzed and evaluated to identify patterns and trends in illicit trafficking. Liaison, collaboration and coordination with regional and international organizations is an essential activity of the Agency, which has relationships with Interpol, Europol, World Customs Organization (WCO), Universal Postal Union (UPU), Organization for Security and Cooperation in Europe (OSCE), United Nations Office on Drugs and Crime (UNODC) and others. Memoranda of Understanding and cooperation agreements support some of these relationships. In 2005, the IAEA sponsored an International Conference on *Nuclear Security: Global Directions for the Future*, and considered issues such as the threat of malicious acts involving nuclear and other radioactive material; the experiences, achievements and shortcomings of national and international efforts to strengthen the prevention of, detection of and response to malicious acts involving these materials; and the ways and means to achieve future improvements. In the findings of the Conference, its president stated that nuclear terrorism was one of the biggest threats to society, and that continued and enhanced efforts were needed to strengthen nuclear security worldwide. This should be facilitated by establishing IAEA nuclear security guidelines and recommendations.

Legislative assistance

Compliance with international obligations usually requires legislative action from States. The Agency assists States, on request, in adopting national rules and regulations pursuant to the obligations contained in the relevant bilateral or multilateral instruments. The Agency's legislative assistance programme supports States in their development of a comprehensive nuclear law governing radiation protection, nuclear and radiation safety, nuclear liability, safeguards and physical protection. Through the years, the Agency has provided assistance to a large number of States to develop their nuclear law in conformity with the international instruments to which they subscribe, including the setting up of independent regulatory authorities that are most often responsible for the control and licensing of nuclear material and related technology. Most of the Agency's legislative assistance provides advice to States on how to draft specific legal provisions that meet their international commitments and obligations in the nuclear field.

Highlights of legislative assistance: Several States have strengthened the laws and regulations in the area of nuclear security. States have improved their levels of preparedness by addressing the risk of malicious acts involving nuclear and other radioactive material. Since 2000, the IAEA has provided legislative assistance to more than fifty Member States by means of written comments and advice in drafting national nuclear legislation for more than seventy Member States. In addition, at the request of Member States, individual training on issues related to nuclear legislation has been provided to approximately fifty-five fellows.

Effective national export controls

As mentioned above, safeguards agreements, additional protocols and other legal instruments require subscribing States to monitor exports and imports of nuclear material and related technology. If national authorities request Agency assistance to set up or strengthen their national control systems, the Agency endeavors to identify ways of helping the State.

Moreover, during the past years, the Agency has gained experience in reviewing nuclear-related imports and exports and has developed considerable expertise in analyzing covert nuclear trade-related activities and transactions.

4. Conclusion

The Agency has a number of programmes and activities that can benefit States in the implementation of their international obligations, such as those required under UNSCR 1540. The most practical way would be for States requiring IAEA assistance to work directly with the Agency and to report progress on the fulfillment of their obligations to the 1540 Committee.

Annex

Examples of IAEA international instruments relevant to enhancing protection of nuclear material against nuclear terrorism:

- Convention on the Physical Protection of Nuclear Material and its Amendment
- Agreements for the Application of Safeguards concluded between the Agency and States pursuant to the NPT (INF-

CIRC/153 (Corr.))

- Model Protocol Additional to the Agreement between State(s) and the IAEA for the Application of Safeguards (INFCIRC/540 (Corr.))
- Convention on the Early Notification of a Nuclear Accident (INFCIRC/335)
- Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency (INFCIRC/336)
- Convention on Nuclear Safety (INFCIRC/449)
- Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management (INFCIRC/546)
- The Code of Conduct on Safety and Security of Radioactive Sources (GOV/2003/49-GC (47)/9, 29 July 2003)
- International Basic Safety Standards for Protection against Ionizing Radiation and for the Safety of Radiation Sources (IAEA Safety Series No.115)

Notes

[1] Imports are to be reported by the State upon the Agency's request.

[2] INFCIRC/274/Rev.1 (May 1980) at www.iaea.org.

[3] See A/RES/46/51 (1991) "Measures to Eliminate International Terrorism".

[4] The Code does not apply to nuclear material, as defined by the CPPNM, except sources incorporating plutonium-239.

* * *

CHINA'S MANAGEMENT SYSTEM AND EXPERIENCE IN NUCLEAR MATERIAL CONTROL AND NUCLEAR SECURITY

*Huang Wei**

Abstract

China's nuclear material control and security management system effectively operates through the implementation of nuclear material control measures, technological advancement of nuclear material accounting and control, nuclear security and physical protection and encouragement of technical cooperation. While these efforts play a positive role in enhancing international nuclear security and improving the international nuclear non-proliferation regime, relevant government agencies consider further strengthening the domestic nuclear material control system in light of the current situation. A slide presentation is annexed to the present statement.

As we all know, the fundamental purpose for strengthening nuclear material control and physical protection and preventing nuclear proliferation is to safeguard international, regional and each State's peace and stability, and promote sustainable economic

**Huang Wei* is Deputy-Director, Atomic Energy Authority, Beijing.

growth. This is the common interest of the international community and the due responsibility of all governments.

As a responsible member of the international community, China firmly pursues the policy of "nuclear non-proliferation". In order to ensure the security of nuclear material during production, use and storage, China has issued a set of regulations concerning nuclear material control and security management and put in place an effective system for nuclear material management. In recent years, the Chinese Government has taken a series of effective measures to strengthen the control of nuclear material control and the physical protection of nuclear material and nuclear facilities. This has played a positive role in enhancing international nuclear security and improving the international nuclear non-proliferation regime.

Legal Basis for China's Nuclear Material Control

For a long time, the Chinese Government has exercised strict control and management over nuclear material production, transportation and storage. In order to prevent theft, sabotage, loss, illegal removal and illegal use of nuclear material, in 1987, the State Council promulgated the *Regulations of the P.R.C on Nuclear Material Control*. It lays out, in clear terms, a strict licensing system for the production, transportation, storage, and handling of domestic nuclear material. The Regulations also spell out clear terms regarding nuclear material accounting and control and physical protection for nuclear material and nuclear facilities. On such a basis, the "National Nuclear Material Accounting and Control System" and a fairly complete supervision system for nuclear material control (including physical protection) have been established.

To put nuclear material under effective control, governmental competent departments have formulated relevant regulations and documents, including:

- Rules for the Implementation of Regulations on Nuclear Material Control of the People's Republic of China
- Rules on Physical Protection for International Transportation of Nuclear Material
- Rules on Physical Protection for International Nuclear Materials Transport
- Rules on Inspection of Nuclear Material Control and Rules on Security of Nuclear Power Plants

As a result, China's nuclear material control and physical protection have been institutionalized and standardized.

Management System for China's Nuclear Material Control

The China Atomic Energy Authority (CAEA) is the governmental agency in charge of nationwide nuclear material control. The CAEA has the following responsibilities in nuclear material safeguards and security:

- Implements the safeguards agreement between China and the IAEA
- Manages nuclear material nationwide and exercises national nuclear material control
- Establishes and maintains a State System of Accounting for and Control of nuclear material (SSAC) and a national system for physical protection of nuclear material and nuclear facilities

- Formulates rules and guidelines for nuclear material accounting and control and the physical protection of nuclear material and nuclear facilities
- Handles and evaluates applications for nuclear material licenses and issues licenses
- Carries out inspections on nuclear material control

According to Regulations on Nuclear Material Control, the nuclear material licensee should be responsible for the security of its nuclear material. The licensee should conduct regular inventory taking of its nuclear material and report to the competent authorities the stock and the balance of the nuclear material. The license holder should also perform the responsibilities of nuclear material control and the security of nuclear material and nuclear facilities.

Recent practices for nuclear material control and physical protection practices for nuclear material and nuclear facility

(1) The licensing mechanism is an important part of China's nuclear material control system. Its major purpose is to strengthen control and supervision on nuclear material and ensure the lawful production, storage, use and transportation of nuclear material as well as the security for nuclear material and facilities through evaluating the applicants' credentials and basic technological conditions.

(2) Accounting and control are important means for the prevention and timely discovery of the theft and loss of nuclear material, preventing its illegal removal and use and ensuring nuclear material security. With reference to international rules and common practices, China's nuclear material accounting and control system is divided into two levels — the national level and facility level. The national level system is designed to supervise and verify whether the license holder

has fulfilled its responsibilities and obligations as required by the Regulations on Nuclear Material Control and whether it has provided technical support to the competent authorities to conduct inspections on nuclear material control. The facility level system is based on the material balance areas. Through dividing the balance areas, setting up key measurement points, and making accurate measurement and analysis of nuclear material, the system can help prevent the theft, loss, illegal removal and illegal use of nuclear material.

(3) The Chinese Government attaches great importance to the physical protection of nuclear material and nuclear facilities. Recent years have seen redoubled efforts by the relevant governmental departments for stronger support to technological research and development and personnel training in physical protection. While the standards of physical protection for newly-built nuclear facilities such as large nuclear power plants are required to live up to the international recommendations, such as INFCIRC/225/Rev.4, the old facilities with relatively low standards have been gradually upgraded to improve their protection and prevention capability.

To prevent and deal with the sabotage of nuclear material and facilities and other emergencies, China has set up a cross-agency emergency response and coordination mechanism, formulated relevant emergency response and strengthened capacity in coping with emergencies.

(4) China supports the international efforts in strengthening the international nuclear non-proliferation and nuclear security regime. The Chinese Government encourages international cooperation to promote domestic nuclear material management and the development of physical protection technologies. Recent years have witnessed many training programs co-sponsored by China and the IAEA on the accounting, control and physical protection of nuclear material in the

Asia and Pacific region, which contributed to the improved capacities of countries in this region for non-proliferation and nuclear security. In 2006, the CAEA continued its cooperation with the IAEA and held regional training courses on nuclear material accounting and control and physical protection at the facility level. Regarding bilateral cooperation, CAEA cooperated with the US Department of Energy in holding a week-long Technical Demonstration on Integrated Nuclear Material Management in Beijing in October 2005. The demonstration, which produced very good results, demonstrated to China's technical personnel at various nuclear facilities the direction for development, advanced methods and concepts in the current technologies of nuclear material accounting and control and physical protection.

Conclusion

Nuclear material accounting and control and physical protection are the effective measures to protect nuclear material security and forestall theft, illegal removal and sabotage of nuclear material. The Chinese Government places high importance on the implementation of nuclear material control measures, actively supports the technological advancement of nuclear material accounting and control, nuclear security and physical protection, and encourages technical cooperation in this regard. Relevant Chinese governmental agencies are favorably considering further strengthening the domestic nuclear material control system in light of the current situation and requirements, such as, revising regulations on nuclear material control, formulating new management rules and stepping up supervision over nuclear material so as to ensure its security.

* * *

ANNEX

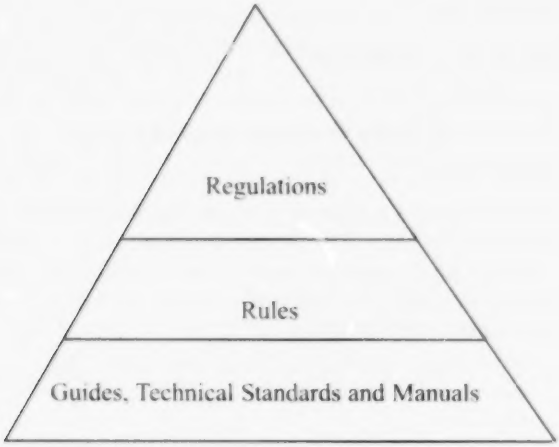
Slide presentation

Nuclear Energy Development History and Policy

- Nuclear energy program initiated in 1950's for military purposes
- Shift nuclear industrial focus to civilian Nuclear Power plant and application since opening and reform policy adopted in 1980's
- In 1991, first NPP in China Mainland connecting to the grid. 6900 Mw installed capacity in China mainland by 2005
- Approval of 4 new projects with 8 units,4 duplication and 4 subject to a bid process for 3rd generation technology.
- March 2006, Planning of Nuclear Power for 15 years approved by the State Council, targeting 40GW installed capacity by 2020.

Legislative system on national nuclear material control

- Three-level system
- Regulations at national level
- Rules at ministerial level
- Guides, standards and manuals



Regulations on Nuclear Material Control

- Promulgated by State Council, June 15, 1987
- Defines:
  - Scope of national nuclear material control and licensing system
  - Functions of government competent authorities and responsibilities of facilities
  - Management requirements

Rules for implementation of regulations

- Rules for the Implementation of Regulations on Nuclear Materials Control (1990),
- Rules on Physical Protection for International Nuclear Materials Transport (1994)

- Rules on Inspection of Nuclear Materials Control (1997)
- Rules on Security of Nuclear Power Plants (1997)

Guides, standards and manuals

for different applications:

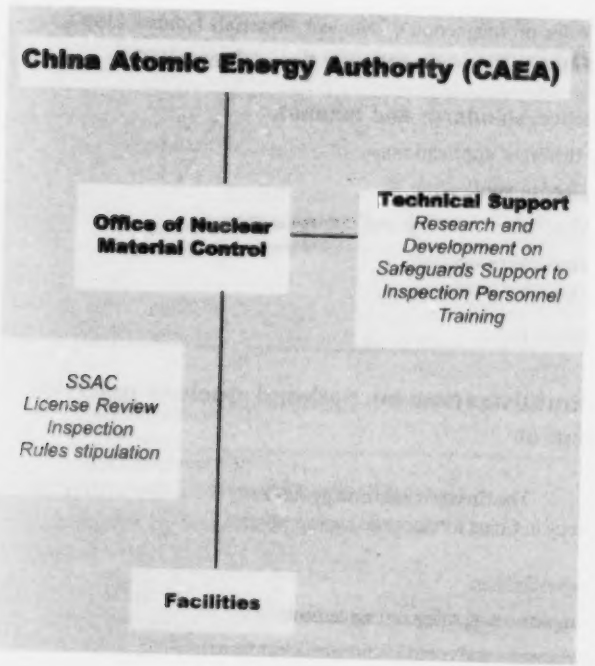
- License application
- Material accounting and control system
- Physical protection
- Measurement methods
- Inspection

Administration on national nuclear material control

The China Atomic Energy Authority (CAEA) is a competent agency in China for domestic nuclear control.

Responsibilities:

- Implementing safeguard agreement;
- Managing and control national nuclear material
- Establishing and maintaining a State System of Accunting and Control (SSAC) and Physical Protection
- Formulating the rules and guidelines for SSAC and Physical Protection
- Accepting and evaluating applications for licensing and issuing the licensing



Office of Nuclear Material Control (CAEA):

- Developing rules and guidelines on nuclear material control
- Accepting and reviewing the nuclear material license application
- Implementing and maintaining a state system of nuclear material
- Physical protection of nuclear material
- Conducting domestic inspections

Implementation and Practices in China

- Licensing and inspection
- Accounting and control
- Physical Protection
- International cooperation

Licensing and Inspection

Objectives:

- Ensure the legal use, production, storage and transport of nuclear material and the security of nuclear material through reviewing
- Examine the technical qualification and management system of a facility to apply the license.
- Verify the compliance of licensee, ensure the security and legal uses of nuclear material

Practices:

- Licensing by CAEA
- Periodical and random inspection
- Verification of the compliance of licensee by authorized organization and expertise
- Collaboration with law enforcement

Accounting and Control

Objectives:

- Discover the timely loss and theft of nuclear material
- Prevent illegal removal and use of nuclear material
- ensure the security of nuclear material.

Practices:

- Two-level SSAC system based on Regulations on Nuclear Material Control (1987) and the Rules for the Implementation of Regulations on Nuclear Materials Control (1990)
- Measures in line with international practice and recommendation

Physical Protection

Objectives:

- Protect against theft and unauthorized removal of nuclear material
- Protect nuclear material and nuclear facility against sabotage

Bases:

- Rules on Security of Nuclear Power Plants (1997)
- Guide on Physical Protection of Nuclear Material (1997) (see IAEA INFCIRC/225)
- Threat analysis

Efforts and practice:

- Strengthened support on Research and Development and training
- Inter-agencies' emergency response and coordination mechanism
- Physical protection system compliance with international recommendation

International Cooperation

- Support international effort in the non-proliferation and nuclear security system
- Participate in international cooperation activities

Summary

- An effective national system of nuclear material control was established to ensure the security and legal uses of nuclear material since the Regulations on Nuclear Material Control promulgated by State Council in 1987.
- Consider future action to strengthen and improve the effectiveness and efficiency of the nuclear material control system, including amending relevant regulations and rules, and perfecting the inspectors system.

* * *

ACCOUNTING, SECURING, AND THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL AND INSTALLATIONS

*Igor S. Vishnevetskiy**

Abstract

The Russian Federation has significant scientific, technical and industrial potential for the development and application of nuclear energy for peaceful purposes. It therefore attaches great importance to the accounting, control and physical protection of its nuclear material and installations. The presentation elaborates its basic national policy guidelines, including national legislation and measures to account for and secure nuclear materials relevant to its obligations under UNSCR 1540.

Aware of the dangers inherent in the spread of weapons of mass destruction (WMD), the world community advocates the build-up of efforts to counter this threat with the United Nations and Security Council playing a central coordinating role.

Security Council Resolution 1540 has proved a practical response to one of the dangerous global threats, namely, the possible link between terrorism and WMD. It sets forth important principles and mechanisms for coordinated international action against any

* *Igor S. Vishnevetskiy* is Senior Counsellor, Ministry of Foreign Affairs, Moscow.

"black market" in WMD and related materials. It provides for actions on a national and international basis to put a stop to the WMD proliferation, their means of delivery and related materials, with the chief objective of preventing them from falling into the hands of non-State actors.

It also reflects the specific steps that should be undertaken in the context of the fight against WMD proliferation. Such measures should be carried out at the national level to strengthen the legislative base and law enforcement activities and to ensure accounting, control and physical protection of "sensitive" goods and technologies as well as control over the export and transit of WMD-related components.

Despite the fact that the probability of the independent creation of a nuclear explosive device by terrorists is assessed as negligible due to the technical difficulties, the development of a primitive bomb with the use of radioactive material is quite possible.

The Russian Federation possesses significant scientific, technical and industrial potential that is being used for the development and application of nuclear energy for peaceful purposes. As a nuclear power with considerable nuclear forces, Russia is committed to reducing its nuclear forces to a minimum level. Since important quantities of fissile material of weapon's origin (highly enriched uranium and plutonium) were released as a result of the reduction of its national nuclear arsenals, Russia is undertaking irreversible and large scale conversion of this material to reactor fuel. Owing to these circumstances, the accounting, control and physical protection of nuclear material have acquired greater importance in our country.

The principal provisions of the national policy in this area are reflected in the *Principles of the State Policy* in the area of WMD non-proliferation and their delivery vehicles,

and in the area of assuring the chemical and biological safety of the country up to 2010 and beyond.

One of the primary security tasks is to safeguard nuclear material that can be used for nuclear weapons or for terrorist purposes. The Russian Federation has taken the necessary measures to introduce and has a clear system in force to account for and secure nuclear materials.

The basic guidelines for the national policy in this field are outlined in the Federal Law, "Use of Nuclear Energy" (1995), as follows:

- State property on all nuclear materials
- federal Government administration and physical protection of all nuclear materials and facilities
- accounting and control over nuclear materials at the federal level and at the level of appropriate agencies
- prohibition of the operation of nuclear facilities, exploiting nuclear storage installations and radioactive source equipment, working with nuclear materials in any stage of production, use, transportation and storage without meeting the requirements of physical protection of nuclear materials and installations.

National legislation in the field of accounting, control and physical protection is systematically updated and improved. A special comprehensive mechanism has been developed to implement this legislation. By decision No. 962 of 15 December 2000, the Russian Federation approved the Regulations on State Accounting and Control of Nuclear Materials.

Nuclear materials are securely protected using modern technology and taking the necessary counter-terrorist measures. Enterprises and organizations dealing with nuclear materials are additionally equipped to bring them in line with the highest standards.

Russia has been consistently upgrading its national measures to protect nuclear material and nuclear facilities. The upgrades consist of high-tech approaches that include a broad spectrum of security and accounting systems, including fences, detectors, sensors, vaults, access control, security cameras and so on.

There are internationally formulated physical protection recommendations which can provide guidance on contemporary means of achieving effective levels of protection.

The Russian Federation is a party to the Convention on the Physical Protection of Nuclear Material (CPPNM). At the Diplomatic Conference in Vienna in July 2005, the amendments to the Convention were adopted. As a result, its scope was considerably expanded. Nowadays, the storage, use and transportation of nuclear material inside member-countries, as well as the measures to protect nuclear material and nuclear facilities against sabotage (diversion) are subject to the Convention. The clauses on international cooperation in the area of physical protection, in particular, regarding nuclear material theft, have been widened, and the issues of assuring the confidentiality of information on physical protection are featured.

States can take a responsible approach to nuclear safety by adhering to and implementing the Convention. Their national rules and regulations should be consistent with these international recommendations.

The storage conditions in Russia are sufficient to provide for the established standards of security and access control. They include, but are not limited, by the following minimal requirements:

- ensuring continuous (24-hour per day) surveillance
- establishing safeguards under which entry to storage sites requires the presence of at least two to three authorized persons

• access to materials and any classified information is limited to military and civilian personnel who have the proper security clearance and those who need to perform their assigned responsibilities and duties

• transporting materials in a manner that provides for the highest standards and practices for safeguarding sensitive items in transit.

Additional attention is devoted to security and control over radiological material that could be used in a so-called "dirty bomb" — a conventional bomb packed with radioactive material that when detonated in an urban area would cause radioactive contamination.

The goals of comprehensive control cannot be achieved without close cooperation of the government with industry and science and research centers. "Awareness raising" is the key direction of work to build such partnership. Nuclear security workshops are carried out to focus increased attention of industry on the "security culture" including fostering disciplined, well-trained and responsible custodians and protective forces, and fully utilized and well-maintained security systems.

An effective border control has been introduced and law enforcement measures have been taken to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in nuclear-related items in accordance with the national legal authorities and legislation. Procedures for crossing the State border are regulated by Federal Act No. 4730-1 of April 1993, as amended and supplemented.

An important part of these efforts has been the "Second Line of Defense"— a cooperative programme between the United States and Russia to prevent the illicit trafficking of nuclear material through airports, seaports and land border ports in Russia. It has focused on outfitting them

with radiation detection, as well as training for its use and keeping the equipment up and running.

To ensure compliance with regulations, Russian legislation provides for criminal and administrative sanctions in case of violations. Russian authorities involved in export control enforcement take measures to timely reveal and prevent attempts at theft of sensitive goods.

In accordance with the Criminal Code, improper discharge of the duties to protect nuclear weapons, material or equipment which can be used in WMD production, if such actions have involved grave consequences, are punishable by up to seven years in prison and by disqualification from holding certain positions or engagement in certain activities for up to three years.

It is important to stress the role of export and import control in this context. The control is not intended to deter international nuclear cooperation for peaceful purposes, but to prevent the nuclear material from falling into the "wrong hands".

The import of nuclear goods and technologies into the Russian Federation is carried out on the basis of individual licenses issued by the Federal Service for Technical and Export Control (FSTEC).

In case the supplier requests the Russian Federation to present assurances concerning the peaceful use of imported nuclear goods, protection of their safety and conditions of their subsequent transfer as well as their placement under IAEA guarantees, such assurances are issued by the Federal Atomic Energy Agency by agreement with the Ministry of Foreign Affairs and other federal executive bodies.

When a Russian import certificate is issued to a foreign exporter, State control is exercised over Russian importers' and end-user' compliance with commitments concerning the guarantees of the used goods.

For this purpose, FSTEC created a database of Russian import certificates (a register of imported goods with the presentation of guarantees that they will be used for the stated purposes). The database is regularly updated and has been maintained since 1994.

Random checks are conducted by the control commission (FSTEC and other federal executive agencies) taking into account the sensitivity of the imported goods and available information about their end-users. The check is conducted at the site where the goods are used and the results are put on record.

One of the main tasks of the Russian State policy is to permanently improve the physical protection and security of the nuclear weapons, their storage and destruction facilities. The major responsibility in this field lies with the Ministry of Defense.

The work to reduce the vulnerability and enhance the physical protection of facilities for the operation and storage of nuclear weapons is carried out in accordance with the Uniform Action Plan for Improving Physical Protection and Security at High Priority and Essential Facilities of the Armed Forces of the Russian Federation.

This plan envisages the annual delivery of integrated security equipment complexes (ISEC) and their deployment at nuclear hazardous facilities pertaining to the Russian Ministry of Defense. The improvement of the existing security systems at facilities is carried out through the gradual incorporation of state-of-the-art ISECs.

An important constituent of the physical protection improvement at nuclear hazardous facilities is the international cooperation that is carried out within the framework of the Agreement between the Governments of the United States of America and the Russian Federation regarding cooperation in the area of Nuclear Material Physical Protection, Control and

Accounting and the G-8 Global Partnership. US and Russian experts share "best practices" for the sake of countries improving security at nuclear facilities and hold security consultations on the subject.

Events of the last years have shown that no one is shielded from threats of international terrorism. All States should be aware that unless they fully meet their obligations under UNSCR 1540 by enacting and enforcing national legal and regulatory measures and by committing to international cooperation on non-proliferation, their territories can be used for illegal activity with WMD-related goods.

Implementing the provisions of the resolution will be a long-term project. We all want to live in a peaceful world. To this end, we need the closest possible international cooperation.

* * *

ACCOUNTING, SECURING AND THE PHYSICAL PROTECTION OF CHEMICAL MATERIALS AND INSTALLATIONS — AN OPCW PERSPECTIVE

*Malik Azhar Ellahi**

Abstract

From an OPCW perspective, the Chemical Weapons Convention provides the legal framework for effecting the prohibitions and definitions to help implement the relevant provisions of resolution 1540 — the Convention's basic obligations are congruent with 1540 requirements, the Convention advances 1540 goals, and physical security is a national prerogative with potential for cooperation between the United Nations and the Organisation for the Prohibition of Chemical Weapons.

Structure of presentation

- Basic obligations of the Chemical Weapons Convention (CWC) and their congruence with 1540 requirements
- CWC implementation advances 1540 goals

**Malik Azhar Ellahi* is Head of Government Relations and Political Affairs, OPCW Technical Secretariat, The Hague.

- Physical security is a national prerogative
  - Potential for cooperation between the United Nations (UN) and the Organisation for the Prohibition of Chemical Weapons (OPCW)

CWC: Salient Features

- Creates a verifiable, global disarmament regime
- Creates a global chemical industry monitoring capacity
- Establishes global transfer restrictions
- Prevents the spread of CW
- Establishes the OPCW for implementation assurance
- Provides for assistance and protection
- Promotes peaceful uses of chemistry

UNSCR 1540

OP 3. Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport,

(b) Develop and maintain appropriate effective physical protection measures.

1540 requirements

- Criminalize WMD acquisition by non-State actors
- Accounting, securing and physical protection of WMD

- Export and trans-shipment controls
- Border controls and law enforcement to prevent illicit trafficking

CWC requirements

- Establish a National Authority
- Enact penal legislation and enforce it
- Adopt import/export controls over relevant chemicals

The Chemical Weapons Convention provides both the legal framework for effecting the prohibitions and the definitions to help implement the relevant provisions.

CWC Article I

1. Each State Party to this Convention undertakes never under any circumstances:

(a) To develop, produce, otherwise acquire, stockpile or retain chemical weapons, or transfer, directly or indirectly, chemical weapons to anyone;

(b) To use chemical weapons;

(c) To engage in any military preparations to use chemical weapons;

(d) To assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Convention.

5. To use riot control agents as a method of warfare.

Article II (1): Definition of "Chemical Weapons"

1. "Chemical Weapons" means the following, together or separately:

(a) Toxic chemicals and their precursors, except where intended for purposes not prohibited under this Convention, as long as the types and quantities are consistent with such purposes;

(b) Munitions and devices, specifically designed to cause death;

(c) Any equipment specifically designed for use directly in connection with the employment of munitions and devices.

Article II (2): Definition of "Toxic Chemical"

2. "Toxic Chemical" means:

Any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. This includes all such chemicals, regardless of their origin or of their method of production, and of whether they are produced in facilities, in munitions or elsewhere.

CWC regime of chemicals:

- Strongest Verification Measures Ever Devised

- Approximately 50 Chemicals under Control Classified into Three "Schedules"

- Schedule 1: Military Use; Ban on Production and Sale

- Schedule 2: Dual Use; Trade with States parties only

- Schedule 3: Dual Use: Trade with Non-Members for peaceful purposes

• All transfers to be reported to the OPCW.

Obligations

Initial and annual declarations:

• declare chemical weapons (CW) and chemical weapons production facilities (CWPFs) and destroy them under OPCW supervision; old and abandoned CW;

• declare relevant chemical production facilities and permit OPCW inspections;

• declare imports and exports of certain chemicals and what riot control agents are held.

Required domestic legal prohibitions

• No person or entity shall:

(a) develop, produce, otherwise acquire, stockpile, own, possess, or retain chemical weapons, or transfer, directly or indirectly, chemical weapons to anyone;

(b) use chemical weapons;

(c) assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party (SP) under the Convention.

• Activities to be prohibited:

(a) transfer to or receive from any person in a State not Party to CWC any Schedule 1 or 2 chemicals;

(b) transfer any Schedule 3 chemicals to a State not Party to CWC without first obtaining an end-user certificate issued by the competent government authority of the State not Party.

Table 1. Chemical demilitarization

	SPs Declaring facilities (CWDF)	Declared sites or facilities (CWSF)	Inspections conducted	Sites inspected
CWPF	12	65	359	66
CWDF	6	37	687	35
CWSF	6	35	321	36
Abandoned CW	3	18	29	20
Old CW	12	47	66	28

Table 2. Industry verification

	No. of SP declaring	No. of facilities declared	No. of inspections
Schedule 1	21	27	162
Schedule 2	36	453	338
Schedule 3	34	484	175
OCPF	76	4994	360

Accomplishments

- 178 nations, representing about 95% of the global population, have joined the Organisation for the Prohibition of Chemical Weapons
- 100% of the declared chemical weapons production facilities have been inactivated. All are subject to a verification regime of unprecedented stringency
- 100% of the declared chemical weapons stockpiles have been inventoried and verified
- 55 of the 65 chemical weapons production facilities declared to the Organisation by 12 States Parties have been either destroyed or converted for peaceful purposes
- Nearly 30% of the 8.6 million chemical munitions and containers covered by the Convention have also been verifiably destroyed
- Over 19% of the world's declared stockpile of approximately 70,000 metric tonnes of chemical agent have been verifiably destroyed
- 2,500 inspections have taken place at nearly 200 chemical weapon-related and at over 700 industrial sites on the territory of 76 States Parties since April 1997
- Worldwide, nearly 6,000 industrial facilities are liable to inspections

Challenges

Universality and National Implementation (Article VII)

178 States Parties; 17 States not Party

Africa: Angola, Central African Republic, Comoros, Congo, Guinea-Bissau, Somalia

Asia: Democratic People's Republic of Korea (DPRK), Myanmar

Eastern Europe: Montenegro

Latin America and the Carribean: Bahamas, Barbados, Dominican Republic

Middle East: Egypt, Iraq, Israel, Lebanon, Syria

National Implementation: Status of Article VII

- 84% of States Parties have National Authorities
- 60% have legislation
- 34% have legislation covering all key areas (including import/export controls)
- 25% have draft legislation under review by ministries or pending in parliaments

Physical Protection

- A national responsibility
- Concepts and principles are the same as included in the Convention on the Physical Protection of Nuclear Materials and facilities
- Quantities and numbers of facilities involved in the chemical area are immense by comparison. In some cases, hundreds of thousands of tonnes of potentially hazardous material are routinely produced and transported
- States need to adopt physical protection according to their own conditions and assets
- Need to promote a "safety culture"
- Resolution 1540 states, "develop and maintain appropriate physical protection measures"
- Consideration could be given to building the capacity of States in this area and collaboration between the UN and OPCW

* * *

ACCOUNTING, SECURING AND THE PHYSICAL PROTECTION OF CHEMICAL AND BIOLOGICAL MATERIALS AND INSTALLATIONS — VIET NAM'S PERSPECTIVE

*Ngyuen Hai Luu**

Abstract

Viet Nam is strongly committed to the implementation of UNSCR 1540 as evidenced in its domestic legislation and measures, and its participation in and compliance with WMD-related international conventions and treaties, bilateral treaties and the terms of the resolution and requests of the 1540 Committee. The presentation elaborates Viet Nam's viewpoints on WMD, its efforts to implement the resolution and its measures to account, secure and physically protect chemical and biological materials and installations.

Viet Nam's viewpoints on weapons of mass destruction

Viet Nam holds that proliferation of nuclear, chemical and biological weapons, as well as their means of delivery, constitutes a threat to international peace and security. Its unwavering position is to sup-

**Ngyuen Hai Luu* is Desk Officer, Department of International Organizations, Ministry of Foreign Affairs, Hanoi.

port full and comprehensive disarmament of weapons of mass destruction (WMD). For years, in a joint effort with the global community, Viet Nam has been consistent in its strong support for the peaceful use of nuclear energy and a world free of nuclear weapons.

In that spirit, Viet Nam has been an active party to international conventions/treaties that prohibit the above-mentioned weapons and strictly observes the international conventions/treaties to which it is a party. If required, Viet Nam amends, supplements, abolishes or promulgates domestic legislatives in line with these conventions/treaties.

Viet Nam has signed nearly forty bilateral agreements/treaties with other countries that cover acts of manufacturing, acquiring, possessing, developing, transporting and using nuclear, chemical and biological weapons. Cooperation to prevent and combat crimes and terrorist activities related to UNSCR 1540 is generally one of the priorities incorporated into these bilateral agreements/treaties.

Viet Nam has ratified or acceded to the following conventions/treaties:

- 1925 Geneva Protocol on the Prohibition of the Use in War of Asphyxiating, Poisonous and other Gases and Methods of Germ Wars
- 1968 Treaty on the Non-Proliferation of Nuclear Weapons (NPT)
- 1972 Convention on the Prohibition of the Development, Production, Stockpiling and Use of Biological Weapons (BWC)
- 1992 Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons (CWC)
- Nuclear Safeguards Agreement with the International Atomic Energy Agency (IAEA)

- 1995 Treaty on the Southeast Asia Nuclear-Weapon-Free Zone (SEANWFZ)
- 1996 Comprehensive Nuclear-Test-Ban Treaty (CTBT)

Viet Nam's efforts to implement UNSCR 1540

In strict compliance with paragraph 4 of UNSCR 1540,

"... and to this end calls upon States to present a first report no later than six months from the adoption of this resolution to the Committee on steps they have taken or intend to take to implement this resolution...",

Viet Nam finalized its first country report and submitted it to the Chairman of the 1540 Committee established pursuant to the resolution in October 2004. Based on the report, the 1540 Committee summarized Viet Nam's information in a matrix that reflected the provisions of the resolution.

In October 2005, the 1540 Committee asked the Vietnamese Government to further clarify its national legislation and regulations to prohibit the proliferation of WMD, related materials and their means of delivery in accordance with resolution 1540. Viet Nam promptly completed these requests and conveyed them to the 1540 Committee in December 2005.

To date, Viet Nam has finalized two reports requested by the 1540 Committee to their satisfaction and that of the other interested parties.

Main themes of the two reports:

The following key aspects are consistently represented in the reports:

• In Viet Nam, all kinds of weapons are controlled by the State and individuals are not permitted to possess and use them, except for sport and hunting guns. Those who wish to possess and use sport and hunting guns are required to register them with competent agencies. Weapons and related materials (including WMD) are categorized as special goods and their manufacture, acquisition, transport and trade are prohibited. Besides legislation and regulations applicable to all types of weapons, other regulations were also issued in Viet Nam to govern WMD and related materials.

- Viet Nam strongly commits to refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery.
- The Vietnamese Government has adopted and enforced effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery. These not only apply to the non-State actor, but to Viet Nam as well.
- The country has taken and will continue to take effective measures to control and prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including the formulation of appropriate control measures over related materials.

• At present, Viet Nam has established a relatively adequate legal framework to control all kinds of weapons, toxic, explosive, flammable and radioactive substances. For instance, Viet Nam's 1999 Penal Code covers this issue in a number of articles, including article 155 on the manufacture, storage,

transport and traffic in prohibited goods; article 236 on the manufacture, storage, transport, use and traffic in radioactive substances; and article 238 on the manufacture, storage, transport, use and traffic in flammable and toxic substances. Current Vietnamese laws prohibit all kinds of proliferation of nuclear, chemical and biological weapons and their means of delivery.

- In 1996, Viet Nam promulgated the Ordinance on Radiation Safety and Control, which clearly stipulates that the State controls all radioactive establishments, activities and sources. In 2000, in an effort to further strengthen and perfect the management system and its measures, the Viet Nam Atomic Energy Research Institute (VAERI), together with the Nuclear and Radiation Safety Bureau (now the Nuclear and Radiation Safety and Control Department), formulated and subsequently implemented the Action Plan for National Nuclear and Radiation Safety. Its main tenets are to further improve laws on the safety and control of radioactive sources; enact the Government's decree to implement the Ordinance on Radiation Safety and Control, the decree on Administrative Punishments for Violations of the Radiation Safety and Control, and other related circulars, standards, and instructions; to ensure a sound and complete state management on the safety and control of radioactive sources from the central to local levels; and to set up the licensing and inspection mechanisms.

• At the same time, many governmental agencies have been involved in the functional administrative process. The implementation of the Chemical Weapons Convention (CWC) is managed by the Ministry of Industry, the import of vaccines

and bio-products is controlled by the Ministry of Health and permissions for temporary imports and re-exports must be obtained from the Ministry of Trade. In addition, Vietnamese customs has been actively cooperating with customs of other countries and international organizations in countering cross-border trafficking of illegal and forbidden goods, and combating terrorism, trans-border and other forms of crimes.

Preparation of the two reports:

Finalizing the two reports required strict inter-governmental preparations and concerted efforts with the focal point of the Foreign Ministry. Based on specific requests from the 1540 Committee, the Foreign Ministry sent out official letters to relevant authorities for functional information. This information was incorporated into a single report submitted to the Prime Minister for formal approval and represents Viet Nam's policies and measures in support of full and comprehensive disarmament of WMD.

Accounting, securing, and the physical protection of chemical and biological materials and installations

Viet Nam shares the view that chemical and biological materials and installations should be accounted, secured and physically protected. This will contribute to maintaining international peace and security as well as minimizing terrorist threats. To that end, the country has been carrying out the following policies and measures:

Chemical weapons and related materials:

• On 3 August 2005, the Vietnamese Government issued Decree 100/2005/ND-CP on the implementation of the CWC. It prohibits all forms of development, production, acquisition, stockpiling and use of chemical weapons; their export and

import; participation in military acts using them; supporting, encouraging or inducing organizations or individuals to participate in any acts banned by the CWC. Moreover, the manufacture, export and import of chemicals will fully comply with the Decree, which also elaborates penalties on violations.

• Pursuant to the Decree, installations that produce, process, utilize or stockpile chemical materials must:

- be established in line with legal provisions and acquire the business license of trading in chemicals authorized by competent agencies;
- have facilities, technologies and equipment relevant for producing, utilizing or stockpiling chemicals and satisfy the registered quality standards;
- have divisions in charge of analyzing and controlling product quality;
- have waste treatment systems that help avoid environmental pollution;
- have all the necessary working facilities and conditions that secure labour safety and environmental hygiene as regulated by the law;
- have technical staff with expertise and trained skills that satisfy requirements of production technologies and product qualities.

• Viet Nam acceded to the 1992 CWC in 1998. Pursuant to Article 10, paragraph 4 of the Convention:

"... for the purposes of increasing the transparency of national programmes related to protective purposes, each State party shall provide annually to the Technical Secretariat information on its programme, in accordance with procedures to be considered and approved by the Conference pursuant to Article VIII, paragraph 21 (i)",

Viet Nam has been strictly preparing its country reports and submitting them to the Secretariat of the Organisation for the Prohibition of Chemical Weapons (OPCW) in a timely manner. In the meantime, Viet Nam stands ready to create favourable conditions for OPCW inspection teams to investigate the safety of its chemical installations as governed by the Convention.

Biological weapons and related materials:

- Viet Nam acceded to the 1972 Convention on the Prohibition of the Development, Production, Stockpiling and Use of Biological Weapons (BWC) in 1980. The country persists in its commitment not to develop, produce, stockpile or use biological weapons and commits not to provide biological agents and toxins to non-State actors in line with UNSCR 1540.

- Viet Nam has been taking proper measures to enhance biosecurity as well as security of pathogens and toxins concentrated in such areas as the border medical quarantine; food hygiene and safety; and biosafety.

Border medical quarantine:

In July 1998, the Government issued Decree No. 41/1998/ND-CP promulgating Viet Nam's Border Medical Quarantine Regulation to replace the 1958 Decree. Border medical quarantine is the medical examination to detect diseases which must be quarantined and to supervise contagious disease from people and transport means when they leave or enter the country as well as from luggage, commodities, containers, postal matters, imported or exported parcel post in accordance with the provisions of this Regulation.

The Border Medical Quarantine Department is the border medical quarantine agency under the Ministry of

Health which is responsible for State management of border medical quarantine activities.

Food hygiene and safety:

The Ordinance on Food Hygiene and Safety was promulgated on 26 July 2003¬ (No. 12/2003/PL-UNTVQH11). It prescribes the assurance of food hygiene and safety in the process of food production and business; the prevention and treatment of food poisoning and food transmitted diseases. Vietnamese organizations, households and individuals as well as foreign organizations and individuals that are engaged in food production and business on Vietnamese territory must abide by the provisions of the Ordinance and other relevant legal provisions. The food business is a conditional business in the country — organizations, households and individuals producing and/or trading in food must register with competent authorities and be accountable for the hygiene and safety of the food they produce and/or trade in.

Biosafety:

On 26 August 2005, the Prime Minister issued Decision 212/2005/QD-TTg on Biosafety Regulation for Genetic Modified Organs (GMO) and GMO-based products. This regulation provides that the State shall supervise biosafety conditions in the scientific research, technology development, experiment, production, trade, use, exports, imports, storage, transportation, risk assessment and management of GMOs and GMO-based products, and grant biosafety certification for those organs and products, to protect human health, environment and biodiversity.

Pursuant to the Decision, all relevant installations had to acquire business licenses from competent agencies and be

physically protected. In this regard, a wide range of managing ministries, People's Committees of provinces or centrally run cities were assigned to build and enhance the expertise of agencies that evaluate the biological safety of GMOs, products and goods of GMO origin; designate specialized scientific agencies to supervise the process of assessing risks of activities related to GMOs, products and goods of GMO origin; direct the handling and remedy the risks and incidents caused to the environment and human health by activities related to GMOs and products and goods of GMO origin within the scope of their respective management.

Conclusion

1. It is Viet Nam's consistent position to support general and complete disarmament of all WMD. As long as these weapons exist, our planet is increasingly at risk to the potential threat of international terrorism.

Viet Nam reaffirms its continued support for disarmament and non-proliferation, non-production, non-development and non-use of WMD of any type and their means of delivery. Viet Nam is strongly committed not to supply any kind of assistance to non-State actors who attempt to develop, acquire, produce, possess, trade, transfer or use nuclear, chemical or biological weapons and their means of delivery.

2. Viet Nam strictly observes the international treaties on the prohibition of WMD proliferation to which it is a party. On 14 June 2005, the National Assembly of Viet Nam passed a law on signing, acceding to and implementing international treaties. According to its provisions, Viet Nam must comply with international treaties to which it is a party. In addition, when the implementation of an international treaty requires actions such amendments, supplements, abrogation or promulgation of domestic legislatives, the competent authority (National Assembly, State President or Government)

which decides that Viet Nam can be a party to that treaty also recommends those actions.

It is noticeable that the related laws, regulations and measures implemented by Viet Nam are resulting in positive outcomes and effects in weapon management and utilization, as no transfer of weapons by non-State actors has been committed. The country will continue to perfect the related legal system to firmly ensure that available weapons are used for the right purpose of safeguarding sovereignty, territorial integrity, national security and social order and do not fall into the hands of non-State actors and criminals.

3. Viet Nam strongly supports the spirit of UNSCR 1540. More than ever, the world community should join hands to prevent the proliferation of WMD and their means of delivery. In order to make the resolution effective, chemical and biological materials and installations must be accounted, secured and physically protected. For its part, Viet Nam has been taking all necessary measures to achieve that end.

4. Viet Nam would like to reaffirm its principal position that resolution 1540 should be executed on the basis of respect for the United Nations Charter and international law, national independence and sovereignty, non-interference in the internal affairs of other countries and peaceful settlement of all disputes. Furthermore, the prevention of WMD proliferation should not be abused to hamper the export, import and technology transfer for peaceful purposes.

At the same time, it is necessary to respect the competence of the organizations established to implement international treaties on WMD or other mechanisms stipulated by these treaties such as the periodic conferences of States parties to international treaties, including the competence to review the implementation of obligations provided in treaties by States parties. All the reviews should be based on bilaterally negotiated international treaties.

* * *

Session IV:
National experiences in implementing measures related to export controls

REGULATORY AND LEGAL FRAMEWORK OF LICENSING IN THE RUSSIAN FEDERATION AND MECHANISMS FOR MONITORING THE END-USE

*Igor S. Vishnevetskiy**

Abstract

Russia's national export control system involves considerable federal executive export control authorities; six control lists, licensing and export control regulations and control over end-use of dual-use goods. Further development of export control legislation and improvement of the work of the federal authorities is a goal of the Russian export control system. By enhancing control, the Government is seeking to eliminate any possibility of transferring controlled goods to non-State actors and to countries under UN arms embargo.

The State policy in the area of control over transfers of military items and dual-use goods and technologies constitutes an integral part of the internal and foreign policy of the Russian Federation. The main purpose of export control is assuring the security of the State, its political, economic and military interests.

**Igor S. Vishnevetskiy* is Senior Counsellor, Ministry of Foreign Affairs, Moscow.

Federal Law "On Export Control" constitutes the basis of the export control regulatory and legal framework of the Russian Federation.

Considerable numbers of federal executive authorities are involved in the national system of export control. Primarily, they are the Federal Service for Technical and Export Control, Ministry of Defense, Ministry of Foreign Affairs, Federal Agency for Industry, Federal Space Agency, Federal Agency for Atomic Energy, Federal Security Service and other departments and agencies of the Russian Federation.

Coordination of all activities of federal agencies and organizational and methodological guidance of the works in the area of export control are performed by the Commission for Export.

Control in the Russian Federation is composed of the heads and deputy heads of federal executive bodies. Senior Government staff and other governmental structures also participate in the work of the Commission

Export control in the Russian Federation is based on the administrative procedure for performing foreign trade operations with controlled goods and technologies, which covers licensing or another form of State approval for foreign trade transactions, involving "sensitive" goods or technologies. Before granting the license, State experts carry out the risk assessment of the foreign trade transaction. The so-called "intangible" transactions (by electronic means) are also subject to export control and licensing procedure.

In Russia, there are six control lists in effect, which are approved by the decisions of the President of the Russian Federation:

1. List of nuclear material, equipment, special non-nuclear materials and relevant technologies subject to export control

2. List of dual-use equipment and materials and relevant technologies used for nuclear purposes, to which export control is performed

3. List of goods and technologies, which may be used for the creation of weapons and military equipment, to which export control is performed

4. List of pathogens of human beings, animals and plants, genetically modified microorganisms, toxins, equipment and technologies subject to export control

5. List of goods, materials and technologies, which may be used for the development and production of missiles and UAV

6. List of chemicals, equipment and technologies, which may be used for the creation of chemical weapons and in relation to which export control is applied.

The national control lists are based on the requirements of multilateral regimes of export control (Nuclear Suppliers Group, Missile Technology Control Regime, Wassenaar Arrangement and Australian Group). But some goods and technologies are additionally controlled for national security reasons.

The licensing and other export control regulations are approved and updated by the Government.

The national system of export control implements the principle of "catch-all" control in relation to goods and technologies, which are not included in the controlled lists. However, if information is available or there is some reason to assume that such items can be used for the purpose of WMD development and their means of delivery, permission for the foreign trade transaction of the Commission on Export Control of the Russian Federation should be obtained.

One of the most important stages of the licensing process is establishing the fact that the specific materials,

equipment, scientific and technical information, works, services and results of intellectual activity are subject to export control of foreign trade transactions and that the goods and technologies with specific technical parameters are included in the national control lists. This process is called the identification procedure of controlled goods and technologies.

The identification procedure is the responsibility of the exporter (company or organization), which may, however, entrust an organization having special permission to perform this kind of activity through the procedure established by the Government of the Russian Federation. In this case, the liability for the accuracy and justification of the results of identifying the controlled goods and technologies rests with the expert organization.

The existence of so-called independent identification expertise constitutes an important instrument of technical and legal justification and expert support for the activity of the Customs and other government control authorities. This mechanism enables the Government to expand the monitoring of foreign trade transactions with "sensitive" goods and technologies and preventing their unauthorized transfer.

End-use control

The export control legislation in the Russian Federation establishes the procedure of control over the end-use of dual-use goods along two main lines:

a) control over the end-use of dual-use goods imported into the territory of the Russian Federation; and

b) control over the end-use of dual-use goods exported from the Russian Federation.

The functions of control over the end-use of dual-use goods are assigned to the Federal Service for Technical and Export Control (FSTEC).

The following documents must be submitted to formalize commitments concerning the use of goods:

- import certificate
- delivery verification certificate
- end-user certificate

These documents determine the commitments of importers and consumers (end-users).

In some cases specified in regulations, the Russian exporter shall include a clause in the contract itself or on the request from the FSTEC, entitling the exporter to check whether the exported goods are used in compliance with the stated purposes. End-use control is exercised in accordance with provisions in the contract signed by the Russian organization (company) and the foreign customer.

The end-user certificate should also provide for obligation of the foreign customers entitling the Russian party to exercise control after deliveries.

The end-user certificate is a duly legalized document containing the following obligations:

- to use items only for stated purposes;
- not to transfer the goods to any economic agent in the territory of the country, nor to direct them to another destination;
- not to re-export them to third countries without the consent of the Russian Federation.

A foreign customer may also ask the Russian Government for end-use assurances. The processing and issuance of the Russian import certificate are carried out by FSTEC. The certificate is issued to the Russian importer in two copies. One copy the Russian importer submits to the foreign exporter to be sent to the national authorities of the country, and the other copy is presented to the Customs.

Verification of compliance with the commitments on the proper use of controlled items exported from the Russian Federation is carried out in accordance with the procedure established by the Government. The request for a check is submitted through the Ministry of Foreign Affairs.

The check, if necessary, is conducted at the site of the use of the goods by the commission composed of representatives of the exporting organization, manufacturing organization, Federal Service for Technical and Export Control, Ministry of Foreign Affairs and other federal executive agencies.

The commission submits the findings and conclusions to the FSTEC and others involved in the check.

If the commission reveals a violation by a foreign importer of its obligations, the Ministry of Foreign Affairs sends an official letter drawing attention of governmental bodies of the importing country to detected violations.

Pending the outcome of the check, the foreign importer can be included in the list of unreliable foreign companies to which export of sensitive items is restricted or banned. This "watch list" is updated by the FSTEC on a regular basis.

While end-use certificates and assurances on end-use in contracts are the essential elements of end-use control they cannot be a substitute for verification mechanisms in the post-license phase — here international cooperation is required. Closer contacts between appropriate licensing and law-enforcement agencies of different countries are necessary.

The further development of export control legislation and improvement of the functioning of federal executive export control authorities is a vital objective of further development of the Russian export control system. The major purpose of this work is to specify the competencies of

Government agencies that monitor compliance with commitments on the proper use of exported items. By enhancing control we are seeking to eliminate any possibility of transferring controlled goods to non-State actors, as well as to countries under UN arms embargo.

* * *

SINGAPORE'S STRATEGIC GOODS CONTROL SYSTEM

*Chiew Sum Chi**

Abstract

The key elements of Singapore's strategic goods control system and its enforcement, industry outreach, border controls and international cooperation measures are defined in the presentation. Looking ahead, Singapore will continue to review the effectiveness of the system and will carefully balance the need for more stringent measures while ensuring that they do not affect legitimate trade.

As a small State, Singapore understands the need for a secure and peaceful global environment. It had signed on to various non-proliferation regimes to demonstrate its support for international non-proliferation efforts, e.g., the Biological Weapons Convention (BWC) since 1975, the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) since 1976, and the Chemical Weapons Convention (CWC) since 1997, and also assumed a seat on the International Atomic Energy Agency's (IAEA) Board of Governors since September 2004 for a period of two years. In addition, Singapore became the first port in Asia to sign on to the

**Chiew Sum Chi* is Assistant Director, International Organizations Directorate, Ministry of Foreign Affairs, Singapore.

Container Security Initiative (CSI) in September 2002 and also joined the Proliferation Security Initiative (PSI) in December 2003.

The Strategic Goods (Control) Act (SGCA)

The Strategic Goods (Control) Act (SGCA) was passed in Parliament on 25 November 2002 and came into effect on 1 January 2003. The SGCA seeks to control the transfer and brokering of strategic goods and technology, goods and technology capable of being used to develop, produce, operate, stockpile or acquire weapons of mass destruction (WMD) and missiles capable of delivering such weapons.

Subsequently on 7 January 2004, the Strategic Goods (Control) Regulations (SGCR) came into effect. The SGCR implements the bulk permit, which authorizes multiple exports or transmissions of controlled goods or technology, as well as record-keeping requirements for traders in strategic goods and technology. The offences which may be compounded are also spelled out in the SGCR.

Elements of strategic goods control

The strategic goods control system embodied under the SGCA is based on the following key elements:

(a) National legislation

The SGCA and its regulations provide for an expanded and consolidated control list, comprehensive regulatory requirements, greater enforcement powers and enhanced international cooperation for strategic goods offences involving Singapore parties or foreign nationals in Singapore.

(b) Control List

The types of strategic goods controlled under the SGCA include: munitions and other specifically designed military equipment and their technology, chemical precursors, biological toxins and viruses, and dual-use items such as sensors and lasers and encryption. A "catch-all" control was also introduced to prevent the use of non-controlled items in WMD programmes.

(c) Intangible transfer of technology (ITT) and Brokering Controls

Singapore's strategic goods control system regulates the intangible transfer of strategic goods technology as well as brokering activities directly related to WMD and offensive categories of conventional arms such as small arms and light weapons and explosives. The brokering controls apply to all local and foreign entities in Singapore regardless of whether the goods were physically transferred through Singapore.

(d) Permit and Registration Requirements

A permit is required prior to any export, transshipment and transit of strategic goods.[1]

The declaration process for the physical transfer of these goods leverages on our island-wide electronic data interchange (EDI) TradeNet system.

In addition, brokers of arms and explosives in Singapore are required to be registered with Singapore Customs. A permit is also required prior to any electronic transmission of controlled strategic goods technology and brokering of sensitive goods and technology.

(e) National Authority

The Singapore Customs is the designated National Authority to implement and enforce the strategic goods control system. Its functions include conducting industry outreach and serving as focal point for international liaison in strategic goods control matters.

Enforcement

Enforcement is based on intelligence and risk profiling so as to ensure that legitimate trade is not impeded by unnecessary checks. At the operational level, we have cooperated with foreign security and enforcement agencies to help prevent strategic goods from being diverted illegally.

Industry Outreach

To ensure better compliance, we also conduct regular outreach programmes to brief traders on their compliance under the SGCA and its regulations. With increased awareness, they could take necessary precautions to avoid being unwittingly involved in shipments of strategic goods or transfers of controlled technology to undesirable parties.

Border Controls

The Immigration & Checkpoints Authority (ICA) is the single command responsible for the security of Singapore's borders against the entry of undesirable persons and cargo through our land, air and sea checkpoints. By having this unified command, it helps to ensure a closely coordinated, quick and effective response against any security threats.

Gamma Radiographic Scanning Systems used for scanning containers are in operation round the clock to per-

form non-intrusive checks on targeted containers at the Singapore port. Additional tools such as the x-ray machines, radiation detectors and explosive detectors are used by officers in the course of their duties. Singapore also signed onto the Radiation Detection Initiative (RDI) in March 2005.

International Cooperation

Singapore recognizes that international cooperation is necessary for an effective implementation of strategic goods control. We actively participate in international fora and workshops, and exchange of best practices with other countries. As part of its cooperation efforts, Singapore Customs also signed a statement on strengthening its bilateral export control cooperation with the Ministry of Economy, Trade and Industry (METI) of Japan on 22 April 2004.

Within the region, Singapore actively participates in the Asia-Pacific Economic Cooperation (APEC) and ASEAN Regional Forum (ARF) focusing mainly on counter-proliferation and counter-terrorism efforts. Under APEC, Singapore had provided inputs to the survey on "Key Elements for Effective Export Control Systems", with the results tabled at the recent Counter-Terrorism Task Force (CTTF) meeting in September 2005. At the ARF, Singapore co-hosted two counter-proliferation related ARF events: the Export Licensing Experts Meeting from 17–19 November 2005 with Canada; and the Seminar on Non-Proliferation of Weapons of Mass Destruction from 27–29 March 2006 with the United States and China.

Conclusion

Looking forward, Singapore will continue to monitor international developments, will study international best practices and review the effectiveness of the strategic goods con-

trol system where necessary. In doing so, we will have to carefully balance the need for more stringent measures while ensuring that they do not affect legitimate trade.

Notes:

[1] Includes documents in which strategic goods technology is recorded, stored or embodied.

* * *

Session V:

National experiences in implementing enforcement of export controls measures

BORDER CONTROL AND SURVEILLANCE AS INSTRUMENTS IN EXPORT CONTROL IN NORWAY

*Odd Berner Malme**

Abstract

Norway carries out an active outreach programme under disarmament, non-proliferation and export control instruments to countries in connection with effective implementation of non-proliferation and export controls. In its national capacity, Norway has in force several legislative and practical measures to ensure that its export control system meets the highest international standards. The power-point presentation highlights the country's border security strategy.

Norway is firmly committed to the implementation of UNSCR 1540, having supported its adoption in April 2004, later supplemented by UNSCR 1673 (2006).

Resolution 1540 recognizes that national governments are responsible for establishing effective domestic controls to prevent proliferation of weapons of mass destruction (WMD) and related materials. Proliferation of these weapons and their means of

**Odd Berner Malme* is Deputy National Police Commissioner, Oslo.

delivery to States and non-State actors pose a serious threat to international peace and stability.

Adoption of resolution 1540 represents an essential element of the global counter-proliferation and counter-terrorism regime. For the first time, Member States of the United Nations are required by international law to establish laws and enforce strategic export controls as well as protect and control sensitive materials.

For several years Norway has been carrying out an active outreach programme under various disarmament, non-proliferation and export control instruments, including visits and assistance to a number of countries. These visits have allowed us to address issues connected with effective implementation of non-proliferation and export controls.

In its national capacity, Norway has introduced several legislative and practical measures to ensure that its export control system meets the highest international standards. More widely, it has been seeking to assist other States in implementing their obligations under the resolution and Norway attaches great importance to this element of the resolution. In 2006, the Norwegian Government allocated approximately US $2 million for various activities within the nuclear non-proliferation and disarmament sphere. Financial support has been channelled through the UN system and to various Norwegian and international research institutions, and the projects fall within the three pillars of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) — non-proliferation, disarmament and peaceful use of nuclear energy.

The Norwegian Government has, *inter alia,* contributed financial assistance to this seminar on "Implementing UNSCR 1540 in Asia and the Pacific".

Its export control system functions as follows:

Establishing export controls requires:

- Sustainable and long term political commitment
- Legal framework
- Policy authority
- Licensing authority, including technical support
- Control/Enforcement authority
- Inter-agency co-ordination and cooperation
- Cooperation with industry, industry awareness raising
- International cooperation

Norway's export control system includes the following agencies and functions:

- Ministry of Foreign Affairs, Security Policy Department, Section for Disarmament and Non-Proliferation
  - policy, including international cooperation
  - legislation
  - licensing, including technical support
  - inter agency coordination
  - providing information to industry
  - annual white paper on arms export
  - reporting commitments (IAEA Additional Protocol Annex 2, UN General Resolution resolution 58/54, "Transparency in armaments").

- Directorate of Customs and Excise
- Norwegian Police Service
- Norwegian Security Police

- Ministry of Defence
- Additional technical support:
  - Norwegian Defence Research Establishment
  - Institute for Energy Technology
  - Norwegian Radiation Protection Authority

Enforcement bodies:

- The Customs
  - Customs Act
  - Custom officers trained on export controls
- The Security Police Service:
  - Police Act
  - Separate department for export controls and counter-proliferation
- The Norwegian Police Service:
  - Police Act
  - Border control and surveillance

Customs and police representatives participate in international expert meetings.

Strategic goals:

The strategic goals comprise the coordination of intelligence driven operational cooperation to strengthen border control security and surveillance on land, air and sea borders.

Border security strategy:

* * *

MEASURES AND INITIATIVES ON CHEMICAL EXPORT CONTROL IN CHINA

*Yuan Longhua**

Abstract

Through its chemical export system, China has made a positive contribution to resolution 1540, the Chemical Weapons Convention and relevant multilateral regimes. The system comprises an effective nationwide CWC implementation and export control system, a designated trader policy, end-user and end-use certification, special production permission, government to industry outreach and inter-agency coordination and law enforcement.

Preventing the proliferation of WMD and their means of delivery is the common task of the international community. China firmly opposes their proliferation and at all levels of government and in the industrial sector active efforts have made in this regard. In the chemical disarmament and non-proliferation field, China has made a positive contribution to Resolution 1540, to the Chemical Weapons Convention (CWC) and relevant multilateral regimes.

**Yuan Longhua* is Deputy Director-General, National Office for the Implementation of the CWC, National Development and Reform Commission, Beijing.

China attaches great importance to the key role of the CWC in preventing proliferation of chemical weapons and related materials and has worked hard to implement the objectives of Resolution 1540 within the CWC framework. As an original State Party to the CWC, China has constantly improved implementation measures and enhanced its capacity at CWC implementation and non-proliferation. To date, China has submitted various categories of declarations to the Organisation for the Prohibition of Chemical Weapons in a timely and comprehensive manner, and has received nearly 100 on-site inspections by the Organisation, the conclusions of which have all demonstrated that China has strictly implemented its obligations under the Convention.

In recent years, China has promulgated a series of laws and regulations and adopted relevant control lists, which constitute a whole set of effective control mechanisms covering production, sales, use, export and import of schedule chemicals of the CWC and of the Australia Group. China has adopted the current international standards and practices and by integrating the national conditions has vigorously strengthened and improved its chemical export control system.

The chemical export control system has embraced the following practices:

An effective nationwide CWC implementation and export control system

In accordance with the provisions of the Convention and the national conditions, China has set up implementation authorities at both national and provincial levels, which constitute an effective nationwide implementation system. The National Development and Reform Commission (NDRC), which is a department of the State Council, was designated the national authority: its executing agency is the National

CWC Implementation Office (NCWCIO). In regions with advanced chemical industries, city and county level authorities have also been established. The local authorities carry their duties of administration, supervision and penalty of chemicals production and import/export within their respective administrative regions.

Designate trader policy

In order to reduce the risk of proliferation, the Regulations on the Administration of the Controlled Chemicals that took effect in December 1995 (the 1995 Regulations) stipulates that the import/export of controlled chemicals and the associated manufacturing technology and equipment can be handled by a few trading companies designated by the Government.

End-user and end-use certification

The designated exporter of controlled chemicals is required to provide a certificate specifying the end-user and end-use, produced by the end-user and by the relevant government department of the importing country. The certificate must guarantee that the chemicals provided by China shall not be used for manufacturing chemical weapons or transferred to a third party other than the declared end-user.

Production administration contributes to export control

In accordance with the 1995 Regulations, China practices the system of special permission granted for the production of schedule chemicals. To build an internal control process, to receive training of its CWC and non-proliferation export control policy, and to receive on-site verification conducted by experts are the preconditions for obtaining special

production permission. No entities are permitted to engage in controlled chemicals production and trade without the special production permission.

Government to industry outreach

An effective export control depends mainly upon the effectiveness of the industry's compliance practices. In recent years, China has taken various measures to disseminate the CWC, United Nations Security Council Resolution 1540 and the legislation on export control known to the industry and public.

Major measures include: (a) organizing regular training courses to familiarize export enterprises with policies, laws and regulations on export control as well as the procedures for export examination and approval to ensure that the enterprises implement them in real earnest and run their business according to law; (b) seminars for the chemical industry and local government officials about the policy review and any improvement needed; (c) setting up a hotline to clear up doubts or questions from the enterprises in a timely manner; (d) educating the enterprises with violation cases, etc. Each year, NCWCIO usually organizes one or two training courses and seminars for the chemical industry and local government officials, and the China Association of Controlled Chemical (CACC) usually organizes at least six programmes of the same training courses and seminars sponsored by NCWCIO.

The Chinese government encourages and guides the enterprises to build their own internal compliance programmes for export control and accountability for non-proliferation. Some enterprises have set up offices for non-proliferation export control to disseminate information of relevant national policies and legislation, draw up specific measures for implementation within the enterprises and supervise their own scientific research, production and business operations so

as to ensure that the enterprises abide by national laws and regulations.

Inter-agency coordination and law enforcement

Inter-agency cooperation and coordination played an important role in chemical export control. The NDRC, Ministry of Commerce (MOFCOM), General Administration of Customs (GAC), State Administration for Industry and Commerce and Ministry of Public Security carry out their duties for the implementation and enforcement of laws and regulations. To share information of imports and exports of controlled chemicals, an online license administration system and information exchange network has been set up through NDRC, MOFCOM and GAC. This has provided an institutional safeguard for swift and effective handling of emergency cases. Even on the provincial level, there is a close cooperation and coordination mechanism between the members of the chemical export control system.

In recent years, the relevant authorities have constantly strengthened the capacity of supervision and law enforcement for the production and import/export activities of controlled chemicals. Any suspected illegal case, such as export controlled chemicals without approval, shall be investigated for criminal liability in accordance with provisions in the Criminal Law. For cases that do not constitute crimes, the competent government departments such as the NDRC, the GAC, and their local embranchment, shall carry out careful investigation and impose administrative sanctions, including warning, confiscation, fines, etc. Competent authorities have put the companies involved in these cases on a "watch list" so as to prevent the recurrence of similar activities.

All these efforts have led to an effective control system that ensures the effective implementation of the CWC and resolution 1540.

* * *

Session VI:
Assistance

EUROPEAN UNION: COOPERATION AND ASSISTANCE

*Annalisa Giannella**

Abstract

European Union outreach and assistance activities are working in favour of resolution 1540 objectives. As the EU, a co-sponsor of this event, becomes more engaged in cooperation and dialogue with its partners, it is learning more about concrete needs in the various regions and developing specific types of assistance and cooperation projects relevant to implementation of resolution 1540. The EU believes that there is some merit in following a regional pattern in the dialogue which prepares the ground for cooperation and assistance.

In October 2003, Javier Solana, High Representative of the European Union (EU), appointed me to implement and further develop the EU Action Plan to fight against proliferation, which became a full-fledged strategy in December 2003[1], and to promote the mainstreaming of the EU's non-proliferation policies in its relations with third countries, in particular through specific cooperation and assistance projects.[2]

UNSCR 1540 reaffirmed that proliferation of nuclear, chemical and biological weapons as well as

* *Annalisa Giannella* is the Personal Representative of the High Representative of the European Union on Non-Proliferation Issues, Council of the European Union.

their means of delivery, constituted a threat to international peace and security; requested States to comply with their obligations; and identified additional measures to be taken by all States.

It is worth noting that the EU Strategy against WMD-proliferation anticipated UNSCR 1540 in many aspects, including:

- the global approach to non-proliferation and the importance attached to the multilateral treaty base
- highlighting the risk of terrorists using WMD
- focus on prevention
- insistence on collective as well as national responsibility, as no State can succeed alone, but efforts of all States are necessary, even if they are not themselves involved in WMD-relevant activities
- importance attached to taking concrete and firm action in the area of export controls and in securing sensitive materials.

In 2004, the EU welcomed the adoption of UNSCR 1540 and immediately began preparing the requested reports. Consequently, on 28 October 2004, the Presidency, on behalf of the EU, submitted the report of the European Union on the implementation of resolution 1540, while EU Member States submitted their reports individually. Recently, the EU welcomed the adoption of UNSCR 1673 and its request for a work programme for the future activities of the UNSCR 1540 Committee, insisting on outreach, dialogue, cooperation and assistance.

Early on, the EU carried out démarches to third States to promote the submission of national reports under UNSCR 1540. As preparation of the national reports requires political effort and technical knowledge, technical assistance and an exchange of experience were welcomed.

In June 2006, the EU adopted its first Joint Action in support of UNSCR 1540 which aims to help support regional seminars for the implementation of the resolution. The dialogue we are having in this regional seminar, together with such instruments as the matrix prepared by the 1540 Committee, will help us to significantly identify both potential recipients and specific areas of assistance. We will then consider each request and envisage follow-up EU Joint Actions to start effective cooperation.

The EU outreach and assistance activities are already working in favour of resolution 1540 objectives. As it becomes more engaged in cooperation and dialogue with its partners, the EU is learning more about concrete needs in the various regions, so that it will be able to further diversify its future assistance and cooperation.

Specific types of assistance and cooperation projects that the EU is developing, since the adoption of the EU WMD Strategy in 2003 and which are relevant from the point of view of the implementation of resolution 1540 include:

a) Launch of an extensive cooperation programme in export controls. For example, in January 2005, the EU started a model cooperation programme with China. On the basis of the 2004 EU-China Joint Declaration on Non-Proliferation, an EU-China workshop began with the participation of foreign affairs officials, licensing authorities and customs officials. The EU is now in the process of conducting follow-up customs cooperation programmes and this model workshop will soon be followed with other States, including those in Asia.

b) Adoption of a Joint Action in support of the International Atomic Energy Agency (IAEA) assistance and cooperation programmes. Among other things, these programmes address the fight against illicit trafficking of nuclear and radioactive materials, including improving border securi-

ty and controls, as well as legislative and regulatory assistance programmes in the nuclear sector, particularly for the implementation of the IAEA additional protocol;

c) Development of a Joint Action in the area of physical protection of a nuclear site in Russia, and consideration of further projects in other countries for physical protection of biological laboratories;

d) Development of activities in support of the Chemical Weapons Convention (CWC) and the Biological Weapons Convention (BWC). In this context, the EU provides legal assistance in the implementation of CWC and BWC obligations. The EU launched the first two projects in support of the BWC in 2006. One project aims at promoting the BWC accession among States not-Party to the Convention. In June 2006, the EU held the first regional seminar for eastern and southern Africa in Nairobi. In the autumn, it plans to organize another seminar in Singapore for Asia and Pacific States. The other BWC project shall assist interested States with the review and drafting of BWC relevant legislation. In that context, I call on interested States party to the BWC to submit their specific requests for assistance to me, and upon examining those requests, the EU plans to commence first assistance visits in late autumn 2006.

In conclusion, I wish to recall that during its first two years, the 1540 Committee contributed to an assessment of existing national measures relevant for countering the non-proliferation challenges and to identifying loopholes. The final report which the Committee approved in April 2006 offered concrete ideas on the areas where our actions needed improvement. We do believe that in the future we should focus on overcoming the shortcomings in the implementation of the resolution. This forum is indispensable for the exchange of experience and networking. The EU has decided to support this seminar and the next two in Ghana and Peru

because there is some merit in following a regional pattern in the dialogue that prepares the ground for cooperation and assistance. We still have a long way to go to ensure effective implementation of UNSCR 1540, but this is a good starting point.

Notes

[1] The European Union decided to co-sponsor this event and render political, as well as financial support, through an EU Joint Action adopted on 12 June 2006.

[2] Partnership and cooperation in the fight against WMD-proliferation is now translated in so-called "WMD-clauses" that the EU inserts into its agreements with third States.

* * *

EU-OUTREACH PROJECT — PILOT PROJECT 2005

ENHANCING EU COOPERATION WITH THIRD COUNTRIES IN THE FIELD OF EXPORT CONTROL OF DUAL-USE ITEMS

*Natascha Wessel**

Abstract

The European Union launched an extensive outreach programme on export controls — *Pilot Project 2005* — which is implemented by a designated agency of the European Commission. The following powerpoint presentation outlines the project's purpose and relation to UNSCR 1540 and the implementation of its legal, licensing, customs, industry awareness raising and sanctions components.

Nexus: Pilot Project and UNSCR 1540

• Calls upon all Member States to take appropriate and effective measures against the threat of weapons of mass destruction (WMD) and their delivery systems to international peace and security;

**Natascha Wessel* is Project Manager Pilot Project 2005, Federal Office of Economics and Export Control (BAFA), Germany.

• Invites Member States to cooperate with other States in implementing domestic legal and administrative provisions.

EU Strategy against the proliferation of WMD

• Multilateralism is the cornerstone of the EU strategy

• Setting up cooperation programmes

European security strategy

• Identifies the proliferation of WMD as the greatest threat to security

• Tackling the threat by strengthening cooperation

EU-Outreach projects implemented by the Federal Office of Economics and Export Control (BAFA):

• Pilot Project 2005

• TACIS Project (Russian Federation)

Cornerstones of Pilot Project 2005:

Duration: 24 months

Start: January 2006

Implementation through:

• Identification of counterparts

• Initial visit

• Needs analysis with partner country

• Setting up a team of EU experts

• Carrying out project activities, such as seminars and study visits

Legal	Licensing	
Draft primary legislation	Draft rules of procedures, train licensing authorities in law enforcement and regulations	
Customs	Awareness	Sanctions
Train customs officers	Outreach to industry	Support to the Judicial Sector

Legal

Determine whether it is comparable with:

- the structure/elements of European Commission (EC) Regulation 1334/00
- obligations as member of the UN (SC Resolution 1540)
- international export control regimes

Implementation of:

- control lists
- catch-all provisions
- other elements of EC Regulation 1334/00 and/or UNSCR 1540

Licensing

- Incorporation of legal provisions into administrative mechanisms
- Train licensing authorities and officers on:

- enforcement of laws and regulations
- processing of applications
- the decision-making process and its criteria
- application/use of control lists and catch-all clauses
- identification/technical rating of controlled dual-use items
- practical aspects of interagency cooperation

Customs

Close connection between customs and export control process on dual use items

- Role of customs in export control system:
  - Legal authorization
  - Identification of dual-use-goods
  - Inter-agency coordination
  - Foreign trade audits

Industry outreach/ Awareness

- Awareness raising among industry and other parties of interest
- Permanent information exchange process between authorities and industry
  - Leaflets
  - Internet/homepage
  - Handbook
- Internal Compliance Programme (ICP)

Sanctions

- Support/training for the judicial sector in dealing with cases of violations
    - o export control laws and regulations
    - o administrative fines
    - o penalties
- Sanctions for offences against export control provisions have to be:
    - o proportionate
    - o efficient
    - o deterrent

Tools

- Initial visits, study tours
- Needs analysis, training needs assessment
- Seminars, "train the trainer", in partner countries and EU-MS (Member States)

Training concept

- Three-step approach:
    - o theory / case study
    - o practical training
    - o lessons learned
- Special focus on situation in receiving country
- European approach
    - o best practice(s)
    - o dialogue and exchange

* * *

PROVIDING AND RECEIVING ASSISTANCE: NEW ZEALAND

*Philip Divett**

Abstract

The challenge facing countries and regional bodies in the Asia and Pacific regions will be to determine the best way, collectively and individually, to develop the legislative and operational frameworks to effectively implement UNSCR 1540. A strategic and coordinated approach for the delivery of assistance programmes is important. In the author's view, the preferred approach is for assistance to be coordinated through regional organizations working with bodies such as the United Nations and potential donors on the development of regionally focused technical assistance programmes.

Over the last nine months New Zealand's Ministry of Foreign Affairs and Trade has been engaged to provide assistance to some of New Zealand's Pacific neighbours in meeting their reporting obligations under various UN Security Council resolutions, including resolution 1540.

In this role it has been my great privilege to travel throughout the Pacific and observe the work being undertaken by governments in the region to combat terrorism, transnational organized crime and the

**Philip Divett* is a Consultant in the Ministry of Foreign Affairs and Trade, Wellington.

proliferation of weapons of mass destruction (WMD) and related delivery systems and materials.

I welcome this opportunity to share with you some observations on issues that I consider relevant to the provision and receipt of effective assistance relating to the implementation of UNSCR 1540. In so doing, I should emphasize that these are general observations and do not necessarily relate to any specific country or countries.

As a typical lawyer, I should also include a disclaimer that I do not consider myself to have any particular expertise in the implementation of the resolution that is the subject of this seminar. However, hopefully my contribution here will be useful in the work of those of you who are indeed experts on that issue.

So with these qualifications in mind, let us turn to the issue at hand.

The importance of a strategic and coordinated approach to the delivery of assistance

Let me start by making the obvious point that to be effective the delivery of assistance on issues related to UNSCR 1540 needs to be undertaken in a strategic and coordinated fashion. An ad hoc or piecemeal approach to the task not only increases the risk of failure, but also of wasted time and resources.

By a strategic approach, I mean the manner in which countries within a region, typically through a regional body such as the Pacific Islands Forum, choose in the broader sense to assist each other to implement their international obligations — for example, through the development of model legislation or frameworks for use by member countries.

Ideally, regional bodies would develop, at an early stage, a broad strategic plan aimed at ensuring (as far as pos-

sible) that assistance is delivered in a way that is coordinated, effective and best utilizes available resources and expertise. Suffice it to say, close collaboration with international organizations such as the United Nations and potential assistance donors is a key element of this strategic coordination role. Of course, it is always open to individual countries to provide or receive technical assistance on a bilateral basis. However, in my view, the preferred approach is for assistance to be coordinated through regional organizations working with bodies such as the United Nations and potential donors on the development of regionally focused technical assistance programmes. In this way, assistance can be better integrated with the development of model legislation or operational frameworks appropriate for use by countries within their regions.

This approach could involve the development of a model framework or "tool-kit" for implementing particular elements. For example, in the context of UNSCR 1540, I believe there is considerable scope for countries at a regional level to work together on the development and implementation of national control lists referred to in the resolution.

In my view, the development, administration and enforcement of this type of control mechanism is one of the biggest challenges facing smaller countries in the implementation of the resolution. There are clear advantages in countries working together within regions such as the Asia and Pacific to develop regionally focused solutions.

Clearly, a "one size fits all" approach to implementation will never work when it comes to individual countries implementing their international obligations. However, just as you and I may buy our clothes "off the rack" and have them tailored to fit, there are many advantages to countries within a region, to the extent practicable, having an initial "off the rack" framework for guidance and possible modification to suit their particular needs.

I consider that this approach, that "joins up" the delivery of assistance with the development of regional frameworks not only best reflects the characteristics of particular regions and countries, but should result in implementation of the resolution that is more effective in achieving the desired outcomes.

Advantages of this approach are that:

- It maximizes the return on available resources
- It results in a resource that is available to all countries in the region
- It should provide a basis for more cohesive discussion at a regional level over implementation issues
- The process of developing a regional framework, if approached collaboratively, should result in greater "buy in" and understanding of issues among officials within the region.

Events such as this seminar provide valuable opportunities for discussion on how countries and bodies within the Asia and Pacific regions can work with international bodies such as the United Nations and potential donors to best assist countries in these regions to implement resolution 1540.

The role of individual countries

Of course while international and regional bodies can play a critical strategic coordination role in the development of assistance programmes and regional frameworks, ultimately it is the responsibility of individual governments to develop effective legislative and operational mechanisms to implement the obligations of the resolution.

Often, countries require external assistance in the development of the necessary frameworks.

A number of factors can influence whether this assistance is effective:

Factors influencing the effectiveness of assistance

In my view, there are five factors that would need to be present in order for assistance on the implementation of UNSCR 1540 to be successful:

- The correct matching of requests for assistance with potential donors
- An understanding of the context in which assistance is being provided
- Clearly identified and understood objectives
- Realistic timeframes, goals and expectations
- A genuine commitment to achieving agreed outcomes

The correct matching of requests for assistance with potential donors

It might be thought that this factor is self-evident and does not need to be stated. However, addresses by officials from the UN Security Council's Counter Terrorism 1267 and 1540 Committees who attended a Pacific Counter Terrorism Working Group a few months ago reminded me of the critical importance of this basic step.

Their reference to the need for clear identification of the types of assistance required and being offered by countries emphasized for me how difficult the process of matching recipients and donors can be, particularly for potential recipients.

The identification of specific types of assistance required can of itself be a challenge for a country possessing limited technical expertise in a particular subject area.

Assistance on legislative issues, where required elements and gaps in implementation are often readily identifiable, is perhaps not quite so problematic. However, in the very broad area of operational capability building, it becomes

more difficult to identify precisely what types of assistance are required. Again, seminars such as this are valuable in providing an insight into the types of assistance that may be required by particular countries.

Understanding the context in which assistance is being provided

Typically, those countries with the ability to provide assistance to other countries have larger developed economies and are consequently able to develop high levels of expertise in many different, and often technically complex, subject areas.

The position is the opposite for potential recipients of assistance. Constraints in resources, both human and financial, often mean those government officials tasked to implement requirements of international treaties and arrangements are by necessity generalists. Their ability to develop technical expertise in many of these areas is often limited by the heavy demands placed on them by their political masters on issues of more immediate domestic priority (i.e., the so called "fish and rice issues"). This may particularly be the case in countries where governments consider there to be a low risk of proliferation or terrorist activities occurring within their country's borders.

Given the potential disparity in knowledge on the subject matter, it is critical for the delivery of effective assistance that the experts providing it do so in a way that is meaningful and relevant for officials with whom they are interacting. They should always be conscious of the risk of "information overload" and remain focused on delivering only the information that is relevant and necessary.

The delivery of assistance should not simply be about the scale or scope of the assistance provided, but also about its

quality. The focus needs to remain on ensuring that what assistance is being provided is relevant to local officials and is useable in the environment in which they operate. In other words, the provision of assistance is both a qualitative and quantitative exercise.

Clearly identified and understood objectives

One of the most important factors in the successful delivery of assistance is a shared understanding of its intended objectives. Without this, parties wishing to provide and receive assistance may with the best of intentions fail to achieve the desired outcomes and waste valuable time and resources.

Having realistic timeframes, goals and expectations

Projects that have unrealistically short or unduly lengthy timeframes or ill-defined outcomes carry the risk that projects fail to deliver the required outcomes or place unreasonably onerous demands on local officials. The end result can be a project that fails to deliver what one or both parties expected.

The focus should be on breaking projects into achievable components and achieving milestones that the parties agree are realistic within the parameters of the project.

A genuine commitment to achieve agreed outcomes

Both parties to assistance projects need to make a commitment to achieve the agreed outcomes. Parties demonstrate this commitment by making time and resources available during the term of the project and by completing related tasks in a timely manner.

Conclusion

That then is my assessment of some issues relevant to the delivery of effective assistance on measures to implement UNSCR 1540.

The challenge for countries and regional bodies in the Asia and Pacific regions over the coming years is to determine the best way, collectively and individually, to develop the legislative and operational frameworks required to implement the resolution effectively within those regions.

Every country will require assistance, in varying ways and degrees in the development of their national frameworks. An investment of time and effort at the "front end" by countries and organizations to develop a strategic and coordinated approach for the delivery of assistance programmes is important.

I am sure that dialogue such as that which has occurred here over the last few days will result in the development and implementation of robust frameworks and related assistance within the Asia and Pacific regions that will contribute to increased international peace and security.

* * *

THE PHILIPPINES AND EXPORT CONTROL

*Jaime Victor Ledda**

Abstract

The Philippines acknowledges that an effective export control regime requires the adoption or revision of definitive legislation to establish domestic controls over chemical and biological weapons, their delivery systems and a comprehensive regulatory regime. In its view, countries can strengthen their export controls through regional seminars, information sharing and bilateral agreements, training and capacity-building programmes and establishment of national and regional export control databases.

The Philippines is committed to the non-proliferation of weapons of mass destruction (WMD) and to the promotion of global peace and security. In compliance with United Nations Security Council Resolution 1540, the Philippines submitted its initial national report reflecting the established domestic controls to prevent the proliferation of nuclear, chemical or biological weapons and their delivery systems. The Philippines likewise has reiterated its commitment to prevent non-State actors from developing, acquiring, manufacturing, possessing, transporting, transferring or using WMD.

**Jaime Victor Ledda* is Consul General, Embassy of the Philippines to Beijing.

While it is not a member of any of the existing international export control regimes, the Philippines is a signatory to the following international agreements.

a) Treaty on the Non-Proliferation of Nuclear Weapons (NPT)

b) Comprehensive Nuclear Test Ban Treaty (CTBT)

c) Southeast Asia Nuclear-Weapon-Free Zone Treaty

d) Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (CWC)

e) Convention on the Prohibition on the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (BWC)

The Philippine legal system provides for the following:

(1) Control by the State of the production and use of atomic energy facilities and atomic energy materials through the licensing and regulation of the import and export of such facilities and materials. These are embodied in Republic Act 5202 and Presidential Decree 930.

(2) Control of the Illegal and Unlawful possession, manufacture, dealing in, acquisition or disposition of firearms, ammunition and explosives through, among others, the licensing and regulation of the import and export of these items. These are embodied in Presidential Decree 1866 as amended by Republic Act 8294, and in Presidential Decree 930.

(3) Control by the State of the importation, manufacture, processing, handling, storage, transportation, sale, distribution, use and disposal of all unregulated chemical substances and mixtures in the Philippines, including the entry in transit, as well as the keeping or disposal of hazardous and

nuclear wastes into the country for whatever purposes. These are embodied in Republic Act 6969.

Present Bureau of Customs and Department of Trade and Industry export and trans-shipment regulations reflect the aforesaid regulations on atomic materials, firearms, nuclear and hazardous wastes.

Export Control Regimes

Corollary to its accession to the various WMD and conventional weapons conventions, the Philippines is embarking on the establishment of a comprehensive Philippine Export Control Regime. Coordination is already taking place with the Bureau of Customs and Philippine National Police for the monitoring of WMD element flows. It is viewed that the Philippines will more likely be a trans-shipment point rather than exporter of WMD and their elements.

The Office of United Nations and International Organizations in the Philippines (UNIO) is closely working with the Office of the Special Envoy to Transnational Crime (OSETC), under the Office of the President, and other agencies with regard to establishing the Philippine Export Control Regime. The first phase of the project — the consolidation of the various existing relevant regulations in force and identification of regulatory gaps — is nearly complete. It will then be able to assess what is still lacking in terms of meeting international export control regime (IECR) standards, as codified in the Nuclear Suppliers Group (NSG-nuclear devices), Wassenaar Agreement (WA-munitions), Australia Group (AG -chemical and biological warfare components) and Missile Technology Control Regime (MTCR-missile components). UNIO is also discussing foreign assistance possibilities for capacity-building with partner governments. The export control project is being closely coordinated with the implementation of the Chemical Weapons Convention (CWC) and other

WMD agreements. The next major priorities include the design of regulations and laws to plug in the gaps identified in our inventory of existing ordinances and to conduct a meaningful industrial outreach programme.

Training and policy seminars have already been held for IECR education. After the gaps in existing laws, policies and regulations have been identified, the National Authority for WMD Inspection and Control (NAWIC) will draft the appropriate regulatory instruments and input provisions in the draft WMD legislation to meet IECR standards. Capacity-building programmes to ensure implementation and enforcement will be undertaken accordingly.

Given the existing condition and considering that the Philippines is in the forefront of the fight against terrorism, the Philippines acknowledges the need to adopt or revise definitive legislation to establish domestic controls to cover chemical and biological weapons and their delivery systems as well as a comprehensive regulatory regime to establish an effective Export Control regime.

The following may assist governments in strengthening their export controls:

- Regional seminars should be offered to enhance the information on export control issues and help to develop better understanding and implementation of export control laws and regulations
- International cooperation especially in non-proliferation efforts through increased information sharing and bilateral agreements which should include harmonization of countries' export control systems
- Provisions of training and capacity building particularly for developing countries;
- Establishment of national and regional export control databases.

* * *

JAPAN'S CAPACITY-BUILDING ASSISTANCE IN RELATION TO IMPLEMENTATION OF UNSCR 1540

*Sho Ohno**

Abstract

In relation to implementing UNSCR 1540, Japan provides a detailed record of its capacity-building assistance in the areas of aviation, maritime and port security, customs and law enforcement cooperation, export control and non-proliferation, counter-CBRN terrorism and anti-terror conventions and protocols. It also briefly outlines a new grant aid for cooperation on counter-terrorism and security enhancement.

Japan's records of providing capacity-building assistance in relation to the implementation of UNSCR 1540

(1) The Japanese Government has been taking actions and measures for capacity-building for combating terrorism, mainly for Asian countries in the nine areas of immigration, aviation security, maritime and port security, custom cooperation, export control, law-

**Sho Ohno* is Deputy Director, Arms Control and Disarmament Division, Ministry of Foreign Affairs, Tokyo.

enforcement cooperation, anti-terrorist financing, counter-CBRN terrorism, and counter-terrorism international conventions and protocols. Japan has been holding seminars and training courses in these areas and since 2004, 322 people have been trained.

(2) Japan's records of providing capacity-building assistance in several of the above areas is outlined below:

Aviation Security

• *Project for improvement of the security equipment in major airports and ports facilities in Indonesia (Grant Aid)*

July 2004 — Japan provided Indonesia with grant aid (747 million yen) for enhancing its security equipment in major airports and ports facilities, which would contribute to tightened security in major Indonesian airports and ports to prevent terrorist operations.

• *Project for construction of the terminal at Kabul International Airport in Afghanistan (Grant Aid)*

May 2005 — Japan provided Afghanistan with grant aid (3 billion yen) in order to construct the new terminal at Kabul international airport, recognizing that terrorists could exploit a less secured airport as an entrance to their international transportation network.

Maritime and Port Security

• *ASEAN Regional Forum (ARF) workshop on capacity-building of maritime security*

Workshop to recognize the importance of enhancing countries' capabilities to address the issue of maritime security, to identify challenges in building their capacity in the field of maritime security, to identify the best practice(s) to tackle the problems and to promote further cooperation among the

ARF participants to improve their capacity in ensuring maritime security.

The workshop was held in Tokyo in December 2005, and sixty-one officials from both ARF developed and developing countries participated, including officials from Brunei, Cambodia (2), China (3), India (5), Indonesia (9), Laos (2), Malaysia (4), Myanmar (2), Pakistan, Philippines (2), Singapore (4), Thailand (2) and Vietnam (2).

• *Training Course on maritime law enforcement*

Course designed so that participants could obtain the required knowledge and skills for planning and supervising maritime law enforcement activities, in particular, investigation of crimes, such as piracy, trafficking in drugs and firearms and smuggling at sea, and be able to prevent and suppress those crimes more effectively and efficiently.

2004 — participation by Bangladesh (14), China, Hong Kong, India, Indonesia, Laos, Malaysia (2), Philippines (2), Singapore (2), Thailand and Viet Nam.

2005 — participation by 10 officials: China, Cambodia, India, Indonesia, Laos, Malaysia, Myanmar, Philippines, Thailand and Viet Nam.

• *Technical assistance for Coast Guard human resource development in Philippines*

Technical assistance project in support of human resource development of the Philippine coast guard (started in July 2002 and expected completion in June 2007). Japan dispatched 12 experts to the Philippines in 2004 and 6 in 2005.

• *Technical assistance for maritime guard and rescue in Malaysia*

Technical assistance project to strengthen the guard and rescue capability of the Malaysian coast guard (started in August 2005 and expected completion in June 2007). Japan dispatched one expert to Malaysia in 2005.

• *Project for strengthening the capacity of maritime security in coast guard agencies*

December 2002 — Japan sent an expert to the Philippines in order to enhance the administration capacity of maritime security (the project is expected to end in December 2006)

June 2003 — sent an expert to Indonesia to strengthen its maritime security management capability (the project is expected to end in May 2007)

May 2004 — 3 experts dispatched to Myanmar-Japan Port Facility Security Seminar held in Myanmar

May 2004 — 3 experts to Cambodia for the Cambodia-Japan Port Facility Security Seminar

June 2004 — 3 experts to Viet Nam for the Viet Nam-Japan Port Facility Security Seminar

July 2005 — 3 experts to Thailand for the Thailand-Japan Port Facility Security Seminar

November 2005 — 3 experts to Myanmar for the Myanmar-Japan Port Facility Security Workshop

December 2005 — 7 experts to Indonesia for the JICA/APEC (Japan International Cooperation Agency/Asia-Pacific Economic Cooperation) Joint Seminar on Port Security

December 2005 — 2 experts to Viet Nam for the APEC/ISPS (Asia-Pacific Economic Cooperation/International Ship and Port Facility Security) Workshop on Port Security

• *Project for improvement of the security equipment in major airports and port facilities in Indonesia (Grant Aid)*

See "*Aviation Security*" section above.

Customs Cooperation

• *Technical Cooperation on Customs*

Improvement of Customs administration in developing countries and regions leads to the unification and harmonization of a world Customs system resulting in faster Customs clearance and less cost for Customs clearance. By organizing training courses in specific areas where technical cooperation is necessary, Japan is accepting Customs officials from developing countries.

• *Training course on enforcement and intelligence management*

June 2004 — participation by 12 officials from Bangladesh, Cambodia, East Timor, Fiji, India, Indonesia, Iran, Malaysia, Nepal, Pakistan, Philippines and Samoa.
August–September 2004 — participation by 12 officials from Bhutan, Laos, Maldives, Mongolia, Myanmar, Nepal, Solomon Islands, Sri Lanka, Tajikistan, Thailand, Vanuatu and Vietnam.

May–June 2005 — participation by 13 officials from Angola, Bangladesh, Bhutan, East Timor, Fiji, India, Kyrgyzstan, Maldives, Nepal, Pakistan Samoa, Tajikistan and Tuvalu.

• *Anti-Smuggling Intelligence Course*

November 2004 — participation by 3 officials from Cambodia, Indonesia and Malaysia.

October 2005 — participation by 8 officials from Kazakhstan (2), Mongolia (2), Nepal (2), and Sri Lanka (2).

• *Technical assistance for Customs Administration*

Seminar to solve problems between Customs administration and the systems/techniques of their respective countries through comparative studies between their countries and Japan and to find solutions and clues so that Japan could support capacity-building of customs authorities of participating countries.

2004 — participation by 15 officials from Afghanistan, Armenia, Barbados, Cambodia, China, India, Kazakhstan, Madagascar, Saint Vincent and the Grenadines, Solomon Islands, Tajikistan, Uruguay and Vanuatu.

2005 — participation by 15 officials from Philippines, Myanmar, Bangladesh (2), China (2), Cook Islands, Guyana, Malawi, Nepal, Niue, Pakistan and Uzbekistan.

• *Project for modernization and internationalization of Customs Administration*

Technical assistance project for modernization and internationalization of customs administration in Vietnam (started in August 2004/expected completion July 2007). Japan has sent one expert to cooperate with the Vietnamese authorities.

Export Control and Non-Proliferation

• *Asian Export Control Seminar*

As a result of economic development, Asian countries and regions have acquired capabilities for the production of sensitive items that can be diverted for use in the development

of weapons of mass destruction (WMD) and their delivery means. In addition, large amounts of cargo (including sensitive goods) pass through some countries or regions used as trans-shipment points. Therefore, effective export control in those countries and regions is essential for international non-proliferation efforts. From this point of view, ensuring the improvement of export control systems in Asian countries and regions is an urgent task.

The seminar is aimed at reaching a deeper common understanding on the importance of export control.

2004 — participation by 45 officials from Brunei, Cambodia, China (Hong Kong and Macao) Chinese Taipei, Indonesia, Laos, Malaysia, Mongolia, Pakistan, Philippines, Republic of Korea, Singapore, Thailand, United Arab Emirates, Vietnam and other developed countries

February 2006 — another seminar is planned.

• *Asia non-proliferation seminar focusing on maritime cooperation*

Seminar to: (1) study procedures of maritime non-proliferation activities of WMD, their delivery systems and their related materials, (2) establish networks among the participating States and (3) study the concept of PSI (proliferation Security Initiative).

2004 — participation by a total of 9 officials from Cambodia (2), Indonesia, Malaysia (2), Philippines (2) and Thailand (2).

• *Asian senior-level talks on non-proliferation: ASTOP*

The purpose is to discuss ways to accelerate efforts for non-proliferation of WMD in Asia. It also discusses possible assistance to Asian countries to facilitate domestic implementation of non-proliferation measures.

2004 — participation by 10 officials from Brunei, Cambodia, China, Indonesia, Laos, Malaysia, Myanmar, Philippines, Thailand and Viet Nam.

2005 — 9 officials from Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Thailand and Viet Nam.

• *Training Course on Improvements of Implementation on Security Export Controls in Asia*

Training course to encourage participants to understand the significance of security export controls and the international trends on non-proliferation and to enhance their ability to introduce non-proliferation security export control systems and detect the concerned transaction.

2004 — participation by 11 officials from Cambodia, China, Laos, Malaysia, Mongolia, Myanmar (2), Philippines, Thailand (2) and Viet Nam.

2005 — participation by 5 officials from Cambodia, Myanmar, Pakistan and Thailand (2).

• *Export control seminars in Asia*

Seminars to strengthen the export control regime in Asia by exchanging and sharing knowledge and information on export control with government officials of Asian countries.

13-14 July **2004**	Indonesia	5 experts (Japan)	84 officials
16 July	Philippines	3 experts (Japan)	52 officials
5 August	Thailand	5 experts (Japan)	53 officials
12 August	Viet Nam	5 experts (Japan)	59 officials
12 January **2005**	Cambodia	5 experts (Japan)	54 officials

25–27 January	Singapore	4 experts (Japan)	104 officials
7 February	Laos	5 experts (Japan)	69 officials
28 March	Brunei	3 experts (Japan)	28 officials
9 May	Pakistan	5 experts (Japan)	24 officials

• *Industrial Outreach Seminar*

Seminar to strengthen effective export control in Asia. Provides companies, including Japanese companies in Asia, with knowledge and information on implementation of export control and encourages them to accelerate their own efforts towards effective export control.

22 February 2005 — (Republic of Korea) participation by 3 Japanese experts and 253 workers.

31 May 2005 — (Singapore) – participation by 5 Japanese experts and 208 workers.

21 March 2006 — (Taiwan) – participation by 7 Japanese experts and 293 workers.

Law-Enforcement Cooperation

• *Seminar on International Terrorism Investigation*

Seminar designed for leaders in charge of international terrorism prevention and investigation to discuss the situation and measures. Participants are expected to: (1) understand the organization of the Japanese police system and countermeasures of international terrorism investigation through case studies; (2) acquire knowledge and skills for international terrorism investigation; and (3) deepen mutual understanding and establish cooperative relationships among participants.

2004 — participation by 14 officials from Indonesia, Malaysia, Philippines (2), Thailand (2), Pakistan, Afghanistan, Ethiopia, Kenya (2), Estonia, and Serbia-Montenegro.

2005 — participation by 16 officials from Colombia, Indonesia (2), Lebanon, Malaysia, Oman (2), Philippines (2), Saudi-Arabia (3), Serbia-Montenegro, Thailand, Vietnam, and Tajikistan.

• *Seminar on police info-communications*

Seminar to enhance the technological skills of participants from foreign agencies to fight high-tech crime and cyber-terrorism and to facilitate communication between law-enforcement agencies using modem information technology

2004 — participation by 21 officials from Brazil (2), Colombia, Republic of Congo, Costa Rica, Indonesia, Kosovo (2), Malaysia, Mexico, Pakistan (3), Peru, Sri Lanka, Thailand (4) and Tonga.

2005 — participation by 16 participants from Chile, Colombia, Egypt, Indonesia, Iraq (2), Kenya, Myanmar, Saudi Arabia, Sri Lanka, Thailand, Tonga, Uruguay, Viet Nam and Zimbabwe.

• *Seminar for foreign senior police officers*

Seminar to encourage foreign senior level police officers to understand counter-measures against various crimes, to acquire knowledge and ability of police management, and to deepen mutual understandings among participants that facilitate international cooperation concerning police activities.

2004 — participation by 7 officials from Colombia, East-Timor, El-Salvador, Oman, Turkey Uruguay and Venezuela.

2005 — participation by 7 officials from Bangladesh, Brazil, Colombia, Honduras, Myanmar, Peru and Uruguay

• *Seminar on criminal investigation*

Seminar to provide executive foreign police officers with knowledge and techniques of the Japanese police and to strengthen a cooperative investigation network among participating countries by sharing information on the current situation and problems in the field of criminal investigation.

2004 — participation by 8 officials from Brazil, Fiji, Indonesia, Papua New Guinea, Panama, Tunisia, Venezuela and Yemen.

2005 — participation by 9 officials from Albania, Bolivia, Brazil, Colombia, Guatemala, Malawi, Philippines, Saint Vincent and the Grenadines and Venezuela.

• *Technical assistance for enforcement of civilian police activities in Indonesia*

Technical assistance project to support reformation and improvement of Indonesian police (started in August 2002/expected completion July 2007). The project entails dispatching experts to Indonesia and accepting trainees from Indonesia.

2004 — Japan sent 4 experts for long-term and 3 experts for short-term cooperation.

2005 — Japan sent 4 experts for long-term and 6 experts for short-term cooperation.

2004 — (trainees from Indonesia) – 24 officials were invited to the police administration seminar, 2 officials attended the on-the-spot inspection training course, 2 participated in the training course for command communication and 3 joined the organization management training course.

2005 — (trainees from Indonesia) – 24 officials were invited to the police administration seminar, 2 attended the on-the-spot inspection training course, 2 participated in the training course for command communication and 2 joined in the organization management training course.

• *Project for enhancement of the civilian police in Indonesia (Grant Aid)*

September 2004 — Japan assisted Indonesia with grant aid (518 million yen) to provide equipment for enhancing radio-communication capability as well as on-site-inspection capability.

• *Project for capacity-building of the Indonesian National Police (Grant Aid)*

September 2005 — Japan provided Indonesia with grant aid (449 million yen) to further enhance the capability of Indonesian national police in communication, on-site-inspection and local police network (Koban system).

• *Project for provision of police buses and motorcycles in Iraq (Grant Aid)*

28 December 2004 — as part of its assistance for the reconstruction of Iraq, Japan decided to implement this new project (2,621 million yen). It provides the Ministry of Interior with funds necessary to purchase 150 police buses and 500 police motorcycles which are installed in police departments across the country in accordance with the security situation.

• *Project for improvement of the equipment for Mazar-e-Sharif Police in Afghanistan (Grant Aid)*

11 March 2005 — Japan decided to extend an emergency grant aid (approximately 111 million yen) to Afghanistan with a view to implementing the above project. It enables the Mazar-e-Sharif police to have the transportation and communications means for expanding its capability and scope of activities, contribute to stabilizing the security- situation in Mazer-e-Sharif and guarantee the security of Japanese aid workers and other donors.

• *Programme for the police training and mentoring in Al Muthanna Province in Iraq (Grant Aid)*

12 October 2005 — Japan decided to provide grant aid (377 million yen) to the Iraqi Government with a view to contributing to the above programme. It is expected that the police officers trained under the programme will cooperate with local communities during their investigation, win the trust of the Iraqi people and thus contribute to restoring security and building peace in the country.

Counter-CBRN terrorism

• *Crisis and consequence management capacity-building in case of chemical, biological, radiological and nuclear (CBRN) terrorism* (implemented by JICA)

Seminar to contribute to capacity-building of Asian countries, with a view to enhancing crisis and consequence management capacity in case of CBRN terrorism such as biological and chemical terrorism, by inviting officials from ministries and agencies responsible for policy-making and coordination in the field of counter-terrorism and crisis management and providing them with knowledge and experience necessary for planning, developing and coordinating a comprehensive policy on international counter-terrorism cooperation and domestic counter-terrorism (CT) measures. Japan

plans to hold this seminar from 2003 to 2008, receiving 150 trainees in total for five years.

2004 — second seminar hosted jointly by Japan and Malaysia as part of Japan's cooperation to the Southeast Asia Regional Centre for Counter-Terrorism (SEARCCT), Malaysia. The programme focused on the preventive measures against chemical terrorism. Invitees from 26 countries: Cambodia (5), Laos (6), Philippines (2), Myanmar (4), China (2), Thailand (3), and Viet Nam (4). Participation by 15 officials from Brunei (3), Malaysia (7), Republic of Korea (2), Singapore (3).

2005 — third seminar hosted jointly by Malaysia and Japan in SEARCCT. Invitees from 31 countries: Cambodia (4), China (3), Indonesia (4), Laos (4), Myanmar (4), Philippines (4), Thailand (4) and Viet Nam (4). Participation by 23 officials from Brunei (3), Malaysia (12), Republic of Korea (3) and Singapore (5).

Anti-terror conventions and protocols

• *Seminar to encourage accession to counter-terrorism related international conventions*

Seminar to encourage practitioners of countries in the Asia-Pacific region to understand knowledge of counter-terrorism related international conventions and protocols and to facilitate their early accession to those conventions and protocols

2005 — Japan plans to hold the seminar in January 2006. Participation by 26 officials is expected: Brunei (2), Cambodia (2), East-Timor (2), Fiji (2), Indonesia' (2), Laos (2), Malaysia (3), Myanmar (2), Papua New Guinea. (2), Philippines (2), Singapore (2), Thailand (2) and Viet Nam.

Newly introduced grant aid for cooperation on counter-terrorism and security enhancement

(1) Objectives

• Assist countries with counter terrorism and piracy through enhancement of capacity, including provision of necessary equipment, of the related government agencies

• Ensure public order, which is essential for developing countries aiming for economic and social development.

Generally, developing countries do not place high priority on counter-terrorism among numerous social development issues. The introduction of new scheme targeting counter-terrorism and security enhancement is expected to contribute to increasing the assistance projects by Japan in these areas through facilitating requests by recipient countries in this regard.

(2) Scale

• 7 billion yen (approximately 61 million US$) for 2006

(3) Scope of assistance

(a) Project type cooperation

• equipment for airport and port security (CCTV camera, X-ray screening system, explosive detection system, metal detector, etc.)

• patrol ships for anti-piracy and anti-terrorism

• equipment for capacity enhancement of law enforcement agencies (fingerprints identification system, radio communication system, criminal identification materials, drug control materials, etc.)

(b) Programme type cooperation

- support for network and capacity-building

(4) Expansion of the eligibility for aid to countries which are beyond the scope of the grant aid for general projects

- in principle, this new scheme can extend assistance to countries eligible for a loan from the International Development Association (IDA) or the International Bank for Reconstruction and Development (IBRD).

* * *

PROVIDING AND RECEIVING ASSISTANCE: UNITED STATES

*Thomas A. Wuchte**

Abstract

A clear gap persists between global consensus about the threat of WMD proliferation and national capacities and willingness to take decisive, concrete actions. Full implementation of UNSCR 1540 will help close this gap. The 1540 Committee could undertake assessments of the reports submitted by States, identify gaps in their capacity and any pattern of deficiencies among them and across regions and prioritize steps that States should take to meet their commitments. This analysis would be useful to the United States and other donors in assessing funding and planning assistance programmes.

The United States (US) continues to view implementation of resolution 1540 as a vital element in our global and national efforts to prevent the proliferation of weapons of mass destruction (WMD) and keep these deadly weapons out of the hands of terrorists. WMD in terrorist hands is one of the preeminent threats to all nations and terrorist groups continue to seek these deadly weapons. Resolution 1540, if fully

**Thomas A. Wuchte* is the United States 1540 Coordinator, Office of Counterproliferation Initiatives, Bureau of International Security and Nonproliferation, Department of State, Washington, D.C.

implemented, can help ensure that no State or non-State actor is a source of WMD proliferation for terrorists.

As you know, much of the initial effort of the 1540 Committee was organizational, e.g., agreeing on rules of procedure, selecting its eight independent experts for the Committee's substantive work and agreeing on how it should carry out its mandate. Since then, the Committee has spent much of its time getting States to submit country reports detailing the steps they have taken or intend to take to implement the myriad provisions of resolution 1540 and reviewing such reports. Resolution 1673 (2006), adopted on 27 April, renewed the 1540 Committee for two years and reemphasized the steps that each State must take to implement its 1540 obligations. Under resolution 1540, the Security Council requested States to report to the 1540 Committee on steps they had taken or intend to take to implement the resolution. Resolution 1673 calls upon States that have not yet presented a report to the Committee to do so without delay and encourages all States that have submitted such reports to provide, at any time or upon the Committee's request, additional information on their implementation of resolution 1540.

The United States has submitted two reports and supported the report-gathering efforts through bilateral démarches, strong language in the annual G-8 Summit statements, and by providing funding and expertise to conferences and outreach. The Export Control and Related Border Security programme has budgeted almost US$132 million since 2004 for 1540-relevant training, equipment, legal/regulatory and infrastructure development assistance. To date, approximately 130 States have submitted a report to the 1540 Committee and each report has been reviewed by the 1540 Committee and its experts. These country reports vary in depth and sophistication, as well as in terms of their value for assessing assistance efforts. The United States helped shape and fund the first

1540 donor conference in June 2006 — now that implementation is intensifying.

In addition, the United States has, over the course of many years, put in place an extensive set of legal and regulatory measures addressing many of the issues covered by resolution 1540. The United States continues to strengthen its legal and regulatory framework in response to new proliferation challenges. One step taken by the United States to fulfill its obligations was the June 2005 issuance of an Executive Order that freezes US assets of WMD proliferators and their supporters and prohibits US persons from engaging in transactions with them. People who are designated under the Order are effectively denied access to US financial and commercial systems. The United States encourages other governments to create similar authorities to address the actions of persons or entities under their jurisdiction who might be financing or otherwise supporting the activities of known proliferators.

Efforts to ensure that States adopt effective controls and enforcement over items covered by resolution 1540 are not new. The international community understands the importance of strong and effective laws and enforcement measures on items of proliferation concern. We have made significant strides in elevating awareness about the importance of strong controls and decisive actions that keep deadly technologies out of the wrong hands, yet a clear gap persists between the global consensus about the threat of WMD proliferation and national capacities and willingness to take those decisive, concrete actions. Full implementation of resolution 1540 will help close this gap, but such implementation must be accomplished through the establishment of clear national priorities to close gaps.

The United States recognizes that many governments might lack the necessary capacity or expertise to assess their

ability to implement resolution 1540 and close any identified gaps. Resolution 1673 recognized the role that the 1540 Committee can play in both assessing States' needs for assistance and with facilitating communication between such States and potential donors (States and international organizations) to provide the assistance needed to take concrete steps toward implementation. Thus, where appropriate, States should be encouraged to reach out to either the Committee or other States for help in gaining access to sources of technical assistance.

The 1540 Committee and its experts have done much useful work over the past two years, summarized in the report of the Committee distributed by the United Nations on 25 April 2006. This is a significant report that for the first time attempts to outline the measures taken by UN Member States to address the key proliferation issues described by the resolution and to combat the danger of WMD use posed by proliferation activities by both State and non-State actors.

A key role for the Committee could be to undertake assessments of the reports submitted, identify gaps in States' capacity as well as any pattern of deficiencies among States and across regions, and begin to prioritize steps that States should take to meet their commitments. While these would not be binding recommendations, they could help shape States' approaches to implementing the resolution's requirements and focus the Committee's experts. This kind of analysis would be of use to the United States and other donors in assessing where funding is needed and in planning assistance programmes.

While donors continue to make their own decisions regarding whether and how to provide assistance to States to implement their obligations under 1540, there is much the Committee can do to help donors coordinate on possible projects and help focus donors on priority gaps. The Committee

could convene and chair meetings in which donor countries discuss their on-going assistance, highlight perceived gaps in aid and share information or assessments regarding assistance.

The United States provides significant assistance to States in helping them undertake full implementation of resolution 1540 and is looking at how it can increase and better target the efforts. We encourage other donor governments to do likewise, and we encourage those States not yet meeting the requirements of resolution 1540 to work with the 1540 Committee, donors, and each other to enact and enforce strong export control laws. The Committee's report recommended that States should be encouraged to provide additional information on national implementation as an ongoing process, including for instance a road map or an action plan for addressing remaining measures to be taken to fully implement the resolution, taking into account the analysis provided by the Committee. Model action plans would be a helpful step for countries to focus on implementation priorities.

* * *

Additional papers

PRESENTATION BY CAMBODIA

*Colonel Kouth Thavy**

Abstract

Cambodia needs resources, technical assistance and international financial aid to control the law enforcement prohibitions related to chemical, nuclear, biological and radiological weapons. The presentation discusses these needs as well as Cambodia's ongoing efforts to combat the proliferation of small arms and light weapons to non-State actors.

We are all aware of the devastating damage that weapons of mass destruction brought to Japan during World War II, or the chemical weapons that were used on the Kurdish minority in Iraq in 1988.

In Cambodia, the war not only destroyed human and animal life, but the national infrastructure as well. Almost three decades later, surplus weapons, ammunitions and unused bombs are still scattered over the country. Some weapons fell into the hands of those who have used them discretionally, some were exported illegally and some fell into the hands of bandits.

Together with other Asian countries, Cambodia has always maintained security and peacekeeping in the region. The country signed the Chemical Weapons

**Colonel Kouth Thavy* is Deputy Director, Chemical Protection Directorate, Headquarters for the Royal Cambodian Armed Forces, Ministry of National Defence, Phnom Penh.

Convention (CWC) on 15 January 1993 and its National Assembly ratified the Convention on 19 July 2005, thus Cambodia became a State party to the Convention and a Member State of the Organisation for the Prohibition of Chemical Weapons (OPCW) on 18 August 2005. To fulfill its obligations under the Convention, Cambodia was required to establish a National Authority to serve as the national focal point for effective liaison with the OPCW and other States parties. On 27 June 2006, the Royal Decree for the establishment of the National Authority for the Prohibition of Chemical, Nuclear, Biological and Radioactive Weapons was signed by the King of the Kingdom of Cambodia.

In addition, a strategy and policy for combating terrorism was formulated by Prime Minister Hun Sen in 1997 which included the country's policy on weapons and ammunition control. In cooperation with the European Union, the European Union Assistance on Curbing Small Arms and Light Weapons (EU/ASAC) was formed for the control and destruction of weapons in Cambodia. From 2000 to 2006, a total of 190,637 weapons were destroyed 49 times in 24 provinces-cities with the assistance of the EU/ASAC. In contrast, the Ministry of National Defence in cooperation with the United States destroyed 223 anti-aircraft missiles and will also destroy the remaining SA-3 missiles (a total of 36 such missiles) that could be obtained by terrorists.

Cambodia intends to fully support UNSCR 1540. To that end, it has sent its representatives to attend workshops and meetings of the International Atomic Energy Agency (IAEA), OPCW, Australia Nuclear Scientific Technology Organization (ANSTO) and a Basic Course for National Authority in France from 13-23 March 2006. Cambodia is also working in close cooperation with other countries in the region and the international community in order to exchange experiences, visions and opinions as well as to assist and sup-

port the will and effort of the international community in this area. Cambodia has also exchanged information and formed a communication procedure with the governments of the United States and other States on combating terrorism and trans-border crimes.

Cambodia has no factories for the production of nuclear, chemical and biological weapons, nor does it manufacture, store or use such weapons presently or in the future, except for some materials furnished by radioactive and chemical substances in the industrial, health and agricultural sectors.

Cambodia is one of the developing countries unable to develop, manufacture, or test weapons or use nuclear energy for peaceful purposes. Most of the country's energy sources are derived from hydropower, fuel and firewood.

The government set up an X-ray scanner for investigation and control at Kampong Som port.

The Royal Decree establishes the National Authority for the country to negotiate or sign in accordance with the power of attorney of the Head of the royal government with the international organizations or the party state on the convention, social conventions and other agreements related to chemical, nuclear, biological and radioactive weapons. Cambodia therefore needs resources, technical assistance, scholarships and local and international financial aid to control the law enforcement of the aforesaid prohibitions.

Through this workshop, Cambodia would like to call on ANSTO, CTBTO, IAEA and OPCW as well as other concerned organizations to help it develop human resources and other skills and provide equipment for the National Authority to combat the spread of chemical weapons in order to promote the safety, lives and environment in the country as well as in the region.

* * *

IMPLEMENTATION OF NON-PROLIFERATION COMMITMENTS – KAZAKHSTAN

*Kairat Sarzhanov**

Abstract

Kazakhstan welcomes UNSCR 1540 and upholds WMD non-proliferation, inter alia, by eliminating its nuclear arsenal and related infrastructure, observing its non-proliferation commitments, adopting comprehensive export control legislation and memberships in the Conference on Disarmament, Nuclear Suppliers Group and the Export Control and Related Border Security Assistance programme with the United States.

The international community now faces an unprecedented challenge of terrorism and proliferation of weapons of mass destruction (WMD).

Kazakhstan has welcomed the UN Security Council Resolution 1540 whereby the Council affirmed that proliferation of nuclear, chemical and biological weapons, as well as their means of delivery, constitutes a threat to international peace and security. The threat of terrorism will become deadly if terrorists acquire highly sophisticated technologies and access to WMD. It believes that the proliferation of WMD and the

**Kairat Sarzhanov* is Chief of the Department of International Organizations and Security Issues Section, Ministry of Foreign Affairs, Astana.

increasing number of States seeking WMD arsenals destabilize the world and sharpen the risk that terrorists will be able to cause much greater tragedies.

Kazakhstan stands for the uncompromising fight against WMD proliferation and does its best to contribute to this common endeavor. Lack of confidence among nations facilitates terrorist operations. Proceeding from this belief, Kazakhstan launched the initiative on the creation of a comprehensive security forum — the Conference on Interaction and Confidence Building Measures in Asia (CICA). The second summit held in Almaty, in June 2006 provided an open forum for the Asian States to discuss security issues in the atmosphere of trust and cooperation based on mutually agreed principles.

Understanding fully its responsibility before the international community and future generations, Kazakhstan completely implements its non-proliferation commitments:

• One of the first legal acts of Kazakhstan President Nazarbaev was a decree permanently closing the Semipalatinsk nuclear testing range. At its independence, Kazakhstan inherited a substantial arsenal of nuclear weapons, the fourth largest in the world in terms of the number of nuclear warheads, which totalled 1,340.

• In 1994, Kazakhstan implemented the Cooperative Threat Reduction programme — the so called Nunn-Lugar initiative, aimed to eliminate nuclear, chemical and biological arsenals and related infrastructure

• Kazakhstan strictly observes the non-proliferation regime:

• It acceded to the Treaty on the Non-Proliferation of Nuclear Weapons as a non-nuclear-weapon state in December 1993, signed the Comprehensive Test Ban Treaty in September 1996, and concluded the Safeguards agreement with the International Atomic Energy Agency

• Kazakhstan was the first State among the former republics of the Soviet Union to adopt comprehensive legislation on non-proliferation export controls to secure nuclear and other sensitive materials

• Since 1999, Kazakhstan has been a member of the Conference on Disarmament

• Kazakhstan is a member of the Nuclear Suppliers Group (NSG) and applies the principles of the Missile Technology Control Regime (MTCR) in its export control practice.

In return, Kazakhstan has received security assurances from the five nuclear powers —China, France, Russia, the United Kingdom and United States. It completed a programme of destroying its nuclear arsenal and related infrastructure with substantial assistance from the United States and Japan.

Through the Export Control and Related Border Security (EXBS) Assistance Program of the United States Department of State, Kazakhstan is cooperating with the United States to strengthen export control and border security. By sharing expertise and improving the capabilities of agencies, it hopes to improve cooperation in order to prevent illicit trafficking of WMD, dual-use products and conventional arms. As a part of that cooperation, the EXBS programme provides equipment and training to address needs identified and agreed upon by government agencies of both countries.

Kazakhstan welcomes the initiatives of the G-8 regarding global partnership against the proliferation of nuclear materials and weapons of mass destruction and expresses hope for a fruitful international cooperation on the issue.

It shares United Nations' goals and aspirations in trying to make the world safe from the threat of WMD.

* * *

Closing Session

ADDRESS BY DEPUTY DIRECTOR-GENERAL AT THE CLOSING SESSION

*Wu Haitao**

Abstract

The seminar has concluded with a series of positive outcomes and fulfilled its expected goals. However, further consultative follow-ups are needed to strengthen regional, subregional and bilateral cooperation, enhance communication and dialogue and promote the comprehensive implementation of the resolution in the Asia Pacific. This also demands unremitting efforts at both the national and international level through communication and cooperation.

Thanks to our joint efforts, the UN Seminar on Implementing UNSCR 1540 in the Asia Pacific is drawing to a successful conclusion.

In the past two days, all the representatives actively participated in the exchanges of views and discussions on the implementation of the resolution, the experiences of respective countries in implementing it and related technical assistance. The seminar has come up with a series of positive outcomes and fulfilled its expected goals, which I am sure are the shared impression and evaluations of us all.

**Wu Haitao* is Deputy Director-General, Department of Arms Control and Disarmament, Ministry of Foreign Affairs, Beijing.

The representatives fully affirmed the great significance of UNSCR 1540, considering it part of international efforts in combating the proliferation of WMD. As the UN Security Council's first resolution on non-proliferation, resolution 1540 has played an important role in promoting the international consensus and cooperation in preventing the acquisition of WMD by non-State actors.

We reviewed the implementation of the resolution and concluded that the overall status over the past two years was satisfactory. The representatives commended the important role of the 1540 Committee in reviewing the national reports and making relevant suggestions, which gave great impetus to the complete and effective implementation of the resolution.

The representatives discussed the drafting of the national report, complete and effective implementation of the prohibitions of the resolution. We also exchanged experiences and practices in implementing measures related to accounting, securing and the physical protection of nuclear, biological and chemical items, and elaborated the measures to strengthen export control and law enforcement.

We are pleased to see that many countries expressed willingness to offer assistance to the countries in need. Through communication and discussion, the representatives have drawn on each other's experiences and deepened the understanding of the resolution. This is definitely conducive to its implementation in the Asia Pacific.

As mentioned in the various presentations, the implementation of the resolution, being a long-term task, demands unremitted efforts at both the national and international level through communication and cooperation.

This seminar, the first one in the Asia Pacific, is a useful try made by the countries in this region to exchange experiences and explore cooperation in the implementation of

the resolution. Through discussions, we identified not only the difficulties and problems with its implementation, but also the ways ahead. Apparently this seminar has served as a good starting point to promote the implementation of UNSCR 1540 in the Asia Pacific.

I hope that all of us take this opportunity for further constructive follow-ups to strengthen the regional, subregional and bilateral cooperation, enhance communication and dialogue, and promote the comprehensive implementation of the Resolution in the Asia Pacific, so as to make contributions to the international non-proliferation process and to global and regional peace, security and stability.

In conclusion, as the host of this seminar, I would like to take this opportunity to express my sincere appreciation to all the representatives for your active participation and support. My sincere thanks also goes to the UN Department for Disarmament Affairs, the European Union, the governments of Australia, Denmark, Norway, and the United Kingdom for their contributions to this seminar, and also to all the staff, interpreters as well as the Beijing International Hotel for their great work.

* * *

CONCLUDING STATEMENT

Nobuaki Tanaka

Abstract

Following the recommendation of the 1540 Committee in its report to the Security Council, regional and subregional outreach activities should be widened and intensified. Discussions and exchange on the implementation of the resolution that took place in the Beijing seminar will undoubtedly be helpful for the further implementation of the resolution as well as the promotion of bilateral, regional and international cooperation.

We have come to the end of the *United Nations Seminar on implementing UNSCR 1540 in Asia and the Pacific*.

On behalf of the Department for Disarmament Affairs and its Regional Centre for Peace and Disarmament in Asia and the Pacific and the participants, I wish to reiterate my sincere appreciation to the Government of China for its initiative to host this important seminar together with its financial contribution. My appreciation also goes to the generous contribution of the other donors, namely, Australia, Denmark, Norway, the United Kingdom and the European Union for making it possible for us to organize this event.

The 1540 Committee's report to the Security Council (S/2006/257) recommends that:

"Regional and subregional outreach activities should be widened and intensified with a view to providing in a structural manner guidance to States for implementing the obligations under the resolution."

The Beijing seminar was the first region-wide attempt to implement this recommendation.

In his opening address, Cui Tiankai, Honorable Assistant Minister for Foreign Affairs, mentioned that the Beijing seminar would contribute to the universal and effective implementation of UNSCR 1540. He also felt that through holding in-depth discussions and exchange on the implementation of the resolution, the seminar would serve to deepen understanding of the resolution and consolidate the consensus. Indeed, we accomplished this goal. We should celebrate the success of the Beijing seminar.

The presentations by the experts of the 1540 Committee were greatly helpful for the participants to learn about the current status of the implementation of the resolution, the specific prohibitions contained therein as it pertains to the Treaty on the Non-Proliferation of Nuclear Weapons, the Chemical Weapons Convention and the Biological Weapons Convention and how to use the matrix as a planning tool for preparing requests or offers of assistance. Information given by the IAEA and the Secretariat of the OPCW contained a number of programmes and activities that would benefit States in their implementation of the resolution and specific services they can offer to that end.

Presentations by States were useful to understand existing legislations, administrative regulations and their enforcement, the coordination among relevant government organizations, awareness raising, export control, management of sensitive materials, priorities, security culture, border control, the need for capacity-building and the offer of assistance. It was an excellent form of exchanging information, experiences and lessons learned. Discussions that took place in the

Beijing seminar will undoubtedly be helpful for the further implementation of the resolution as well as the promotion of bilateral, regional and international cooperation.

Throughout the seminar, the participants reaffirmed the importance of the implementation of UNSCR 1540 to prevent non-State actors from acquiring weapons of mass destruction, their means of delivery and related materials, and that is also a prerequisite for identifying gaps that exist. States that have not yet presented a first national report were encouraged to do so. At the same time, they felt that the full implementation of the resolution is a long-term t that requires continuous efforts at national and international levels.

This brings us to the conclusion that regional and subregional outreach activities should be widened and intensified. Building upon the successful outcome of the Beijing seminar, I hope further follow-up meetings at the subregional level would be held on specific issues taking into account the needs of individual States or a group of States in a given subregion. While appreciating the support of donors of this seminar, we would be grateful if we could receive further financial contributions to promote full and effective implementation of UNSCR 1540 in Asia and the Pacific.

Before concluding, I wish to express my sincere appreciation to the staff of the Ministry of Foreign Affairs and Hons International Consulting Co., Ltd. as well as my New York colleagues for their tireless efforts for the success of the Beijing seminar. My appreciation also goes to the able interpreters for their excellent work which contributed to the smooth communication among the participants, and my thanks to the Beijing International Hotel for its excellent service which made our stay in this city enjoyable and comfortable.

* * *

APPENDIX

List of Participants

Afghanistan

Mr. Mohammad Ismail AMERKHIL
Member of UN and International Conferences
Department
Ministry of Foreign Affairs
Kabul

Australia

Ms. Sophia MCINTYRE
Head of Australia Group Secretariat
Department of Foreign Affairs and Trade
Fax: 61 2 6112 2397

Mr. Marc GRAY
Director of Counter-Terrorism CBRN Section
Department of Foreign Affairs and Trade
Canberra

Bangladesh

Mr. Hamidur RASHID
Director (United Nations)
Ministry of Foreign Affairs
Dhaka

Lieutenant Colonel Mohammad Kamrul ISLAM
General Staff Officer
Armed Forces Division
Prime Minister's Office
Dhaka

Cambodia

Colonel KOUTH Thavy
Deputy Director
Chemical Protection Directorate
High Command of the Royal Cambodian Armed Forces
Ministry of National Defence
Phnom Penh

China

Mr. CHENG Jingye
Ambassador for Disarmament Affairs
Permanent Mission of China to the United Nations Office i
Geneva
Mr. DAI Huaicheng
Third Secretary
Department of Arms Control and Disarmament
Ministry of Foreign Affairs

Mr. GUAN Youfei
Director-General
Ministry of Defense

Mr. HUANG Wei
Deputy-Director
Atomic Energy Authority

Mr. LI Yingfeng
Officer
Ministry of Defense

Mr. LONG Zhou
Director
Department of Arms Control and Disarmament
Ministry of Foreign Affairs

Mr. MA Shengkun
Director
Department of Arms Control and Disarmament
Ministry of Foreign Affairs

Mr. NIE Jianjun
Deputy Director
National Development and Reform Commission

Mr. SONG Jian
Deputy Director
Commission of Science, Technology and Industry for National Defense

Mr. ZHANG Chongde
Deputy Director-General
Ministry of Public Security

Mr. ZHANG Junan
Deputy Director
Department of Arms Control and Disarmament
Ministry of Foreign Affairs

Mr. ZHANG Yan
Director-General
Department of Arms Control and Disarmament
Ministry of Foreign Affairs

Ms. ZHOU Ruojun
Deputy Director-General
Ministry of Commerce

Mr. WANG Anhua
Deputy Director
Ministry of Public Security

Mr. WANG Changjiang
Official
Ministry of Commerce

Mr. WANG Daxue
Deputy Director
Department of Arms Control and Disarmament
Ministry of Foreign Affairs

Mr. WANG Yongshui
Deputy Director-General
General Administration of Customs

Mr. WANG Yu
Official
Commission of Science, Technology and Industry for National Defense

Mr. WU Haitao
Deputy Director-General
Department of Arms Control and Disarmament
Ministry of Foreign Affairs

Mr. WU Genping
Official
General Administration of Customs

Mr. XIA Tian
Deputy Director
Department of Arms Control and Disarmament
Ministry of Foreign Affairs

Mr. YUAN Longhua
Deputy Director-General
National Office for the Implementation of the CWC in China
National Development and Reform Commission

Fiji

Mr. Simione Durutalo ROTOLAQA
Second Secretary
Permanent Mission of the Republic of the Fiji Islands to the United Nations
New York

India

Mr. Naveen SRIVASTAVA
Director
Ministry of External Affairs
New Delhi

Indonesia
Ms. Ratu Silvy GAYATRI
Deputy Director
International Security and Disarmament Affairs
Department of Foreign Affairs
Jakarta Pusat

Mr. Fikry CASSIDY
First Secretary (Political)
Permanent Mission of Indonesia to the United Nations
New York

Japan
Mr. Sho OHNO
Deputy Director
Arms Control and Disarmament Division
Ministry of Foreign Affairs
Tokyo

Kazakhstan
Mr. Kairat SARZHANOV
Chief of Section
Department of International and Security Issues
Ministry of Foreign Affairs
Astana

Lao PDR
Ms. Kanika PHOMMACHANH
Director-General
Department of International Organization
Ministry of Foreign Affairs
Vientiane

Mongolia
Ms. Rinchenmyadag SHAGDAR
Disarmament Officer
Multilateral Cooperation Department
Ministry of Foreign Affairs
Ulaanbaatar

Myanmar
Ms. Khyne KALYAR
Assistant Director
International Organizations Division
Ministry of Foreign Affairs
Naypyitaw

Nepal
Mr. Nirmal Raj KAFLE
Section Officer
Ministry of Foreign Affairs
Kathmandu

New Zealand
Mr. Philip DIVETT
Consultant
Ministry of Foreign Affairs and Trade
Wellington

Pakistan
Mr. Mohammad Kamran AKHTAR
Director (Disarmament II)
Ministry of Foreign Affairs
Islamabad

Papua New Guinea
Mr. Gari BAKI
Deputy Commissioner of Police
Royal Papua New Guinea Constabulary
Konedobu

Philippines
Mr. Jaime Victor LEDDA
Minister and Consul General
Embassy of the Philippines in Beijing

Republic of Korea
Mr. Jong-kwon YOUN
First Secretary
Disarmament and Non-proliferation Division
Ministry of Foreign Affairs and Trade
Seoul

Russian Federation
Mr. Igor VISHNEVETSKIY
Senior Counsellor
Ministry of Foreign Affairs
Department for Security and Disarmament Affairs
Moscow

Singapore
Mr. Chiew Sum CHI
Assistant Director
International Organizations Directorate
Ministry of Foreign Affairs
Singapore

Thailand
Mr. Charn JULLAMON
Director
Peace and Security and Disarmament
Department of International Organizations
Ministry of Foreign Affairs
Bangkok

Vietnam
Mr. Ngyuen Hai LUU
Desk Officer
Department of International Organizations
Ministry of Foreign Affairs
Ha Noi

Others

Denmark
Ms. Susanne Rumohr HAEKKERUP
Chargé d' Affaires
Embassy of Denmark in Beijing

Ms. Maj RAVNKILDE
Political Assistant
Embassy of Denmark in Beijing

France
Mr. Alexis MAY
Counsellor
Embassy of France in Beijing

Norway
Mr. Odd MALME
Deputy National Police Commissioner
Norwegian Police Directorate
Oslo

United Kingdom
Ambassador William EHRMAN
Ambassador of UK to China
Beijing

Ms. Clare FILSHIE
Expert
Embassy of UK to China
Beijing

United States
Mr. Thomas WUCHTE
Foreign Affairs Officer
Office of Counterproliferation Initiatives
US 1540 Coordinator
Washington, D.C.

Organizations

European Union
Ms. Annalisa GIANNELLA
HR Solana's Personal Representative
for non-proliferation of weapons of mass destruction
Council of the European Union
Brussels

Mr. Jean-Claude BRUNET
Counsellor
Special Assistant (External Relations)
Office of the Personal Representative
for non-proliferation of weapons of mass destruction
Council of the European Union
Brussels

Ms. Natasha WESSEL
Project Manager Pilot Project 2005
Federal Office of Economics and Export Control (BAFA)
Germany

International Atomic Energy Agency
Mr. Peter COLGAN
Senior Nuclear Security Officer
Vienna

Organisation for the Prohibition of Chemical Weapons
Mr. Malik Azhar ELLAHI
Head of the Government Relations and Political Affairs Branch
The Hague

Observers

Ms. Virdiana Ririen HAPSARI
Third Secretary Political
Embassy of Indonesia to China
Beijing

Mr. Mark TESONE
First Secretary – Political Officer
Embassy of the United States of America
Beijing

United Nations

1540 Committee
Ambassador Peter BURIAN
Chairman/Permanent Representative of the Slovak Republi
to the United Nations
New York

Mr. Gunterio HEINEKEN
Expert
New York

Mr. Patrice PALANQUE
Expert
New York

Department for Disarmament Affairs
Mr. Nobuaki TANAKA
Under-Secretary-General for Disarmament Affairs
New York

Mr. Tsutomu ISHIGURI
Director
Regional Centre for Peace and Disarmament in Asia and th
Pacific
New York

Ms. Kerstin BIHLMAIER
Assistant Political Affairs Officer
Weapons of Mass Destruction Branch
New York

* * *

كيفية الحصول على منشورات الأمم المتحدة

يمكن الحصول على منشورات الأمم المتحدة من المكتبات ودور التوزيع في جميع أنحاء العالم . استعلم عنها من المكتبة التي تتعامل معها أو اكتب إلى : الأمم المتحدة ، قسم البيع في نيويورك أو في جنيف .

如何购取联合国出版物

联合国出版物在全世界各地的书店和经售处均有发售。请向书店询问或写信到纽约或日内瓦的联合国销售组。

HOW TO OBTAIN UNITED NATIONS PUBLICATIONS

United Nations publications may be obtained from bookstores and distributors throughout the world. Consult your bookstore or write to: United Nations, Sales Section, New York or Geneva.

COMMENT SE PROCURER LES PUBLICATIONS DES NATIONS UNIES

Les publications des Nations Unies sont en vente dans les librairies et les agences dépositaires du monde entier. Informez-vous auprès de votre libraire ou adressez-vous à : Nations Unies, Section des ventes, New York ou Genève.

КАК ПОЛУЧИТЬ ИЗДАНИЯ ОРГАНИЗАЦИИ ОБЪЕДИНЕННЫХ НАЦИЙ

Издания Организации Объединенных Наций можно купить в книжных магазинах и агентствах во всех районах мира. Наводите справки об изданиях в вашем книжном магазине или пишите по адресу: Организация Объединенных Наций, Секция по продаже изданий, Нью-Йорк или Женева.

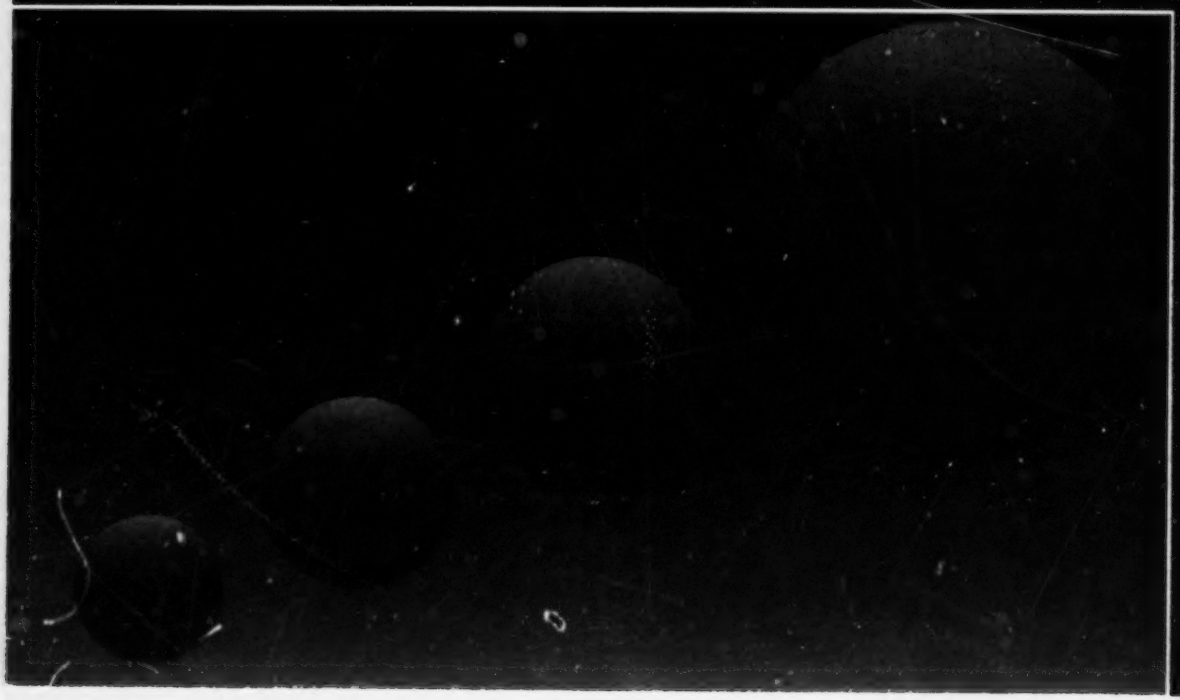
COMO CONSEGUIR PUBLICACIONES DE LAS NACIONES UNIDAS

Las publicaciones de las Naciones Unidas están en venta en librerías y casas distribuidoras en todas partes del mundo. Consulte a su librero o diríjase a: Naciones Unidas, Sección de Ventas, Nueva York o Ginebra.

Litho in United Nations, New York

xx-xxxxx—December 2006 —3,085

DDA OCCASIONAL PAPERS



No. 11, October 2006